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1971

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# ANNUAL REPORT



**EQUALITY  
and  
JUSTICE  
for  
ALL**

H.R.  
261.7  
M41-8  
1971  
A

MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

"I HAVE A DREAM... THAT ONE DAY THIS NATION WILL  
RISE UP AND LIVE OUT THE TRUE MEANING OF ITS CREED —  
WE HOLD THESE TRUTHS — THAT ALL MEN ARE CREATED  
EQUAL."

THE REVEREND DR. MARTIN LUTHER KING, JR.,  
FOUNDER

SOUTHERN CHRISTIAN  
LEADERSHIP CONFERENCE  
15 JANUARY 1929 - 4 APRIL 1968

# THE COMMONWEALTH OF MASSACHUSETTS EXECUTIVE DEPARTMENT

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## 1971 Annual Report of the MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

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### COMMISSION Members:

**Glendora M. Putnam, Chairman**

**David Burres**

**Gordon A. Martin, Jr.**

**Ben G. Shapiro**

Copies of this Annual Report may be obtained at the Commission's offices:

**120 Tremont Street  
Boston**

**222 Union Street  
New Bedford**

**145 State Street  
Springfield**

**50 Franklin Street  
Worcester**

5-31-1973

Mass Officials



M41-82  
1971  
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*The Commonwealth of Massachusetts*  
*Commission Against Discrimination*  
120 Tremont Street, Boston 02108

ADMINISTRATIVE SERVICES: 727-3990  
FIELD INVESTIGATIONS : 727-4145

31 December 1971

The Honorable Francis Sargent, Governor  
and  
The Honorable Members of the General Court  
Commonwealth of Massachusetts

Gentlemen:

Again, the public filed over 900 complaints with this Commission. Such a case-load induced legislative reform which should enable the Commission to improve its case-handling process.

We are grateful to the Governor and the General Court for viewing favorably the need for single-commissioner hearings. This single reform should enable the Commission to become current in public hearings and provide speedy resolution in the interests of the complainants, respondents and the public.

Under Executive Order No. 74, the Commission surveyed the Commonwealth as an employer and launched a program to increase minority hiring and the upgrading of women.

In October of this year, the United States Supreme Court, in *Griggs vs. Duke Power Company*, set the direction which should have a major impact on hiring and promotional practices of both private and public employers. To effectively implement this decision, this Commission was invited by the Equal Employment Opportunity Commission to submit a proposal for funding and reorganization. It was approved and funded for 1972. From this reorganization, we expect to build viable procedures for eliminating systemic discrimination.

To develop procedures for identifying and eliminating systemic discrimination in housing, this Commission received a grant from the United States Department of Housing and Urban Development. By developing better investigating techniques and adhering to far-reaching Federal legal decisions defining systemic discrimination, we hope to serve the needs of a greater number of persons than are reached by a case-by-case approach.

We pay special tribute to those dedicated citizens on our Advisory Councils who, through workshops, discussions and identification of discriminatory practices in their communities, have assisted this Commission in its work. Without the help of many citizens, affiliated and non-affiliated groups, public officials both elected and appointed, who have worked cooperatively with us, we would have nothing to report.

To create and foster a non-discriminatory society is the responsibility of us all; however, it is just a dream to many. We are grateful for those who see their responsibility and come forth to meet it.

That is what this report is all about.

Very truly yours,  
/s/ Glendora Putnam  
Glendora Putnam,  
Chairman



*The Commonwealth of Massachusetts*  
*Commission Against Discrimination*  
*120 Tremont Street, Boston 02108*

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31 December 1971

To the Citizens,  
Commonwealth of Massachusetts

Dear Friends,

We, the entire staff of the Massachusetts Commission Against Discrimination, continue to put forth every effort to fulfill our commitment to all the people of the Commonwealth, and we humbly submit for your review this brief summary of the activity and accomplishments of our agency during the year 1971.

This summary reflects the results of a continuing and cooperative team-effort practiced by all of us here in the daily execution of our responsibility, and we are grateful to have you read this report.

If we can further clarify for you the function and purpose of our Commission, we hope you will not hesitate to contact us.

Very truly yours,

/s/ E. Holden

E. Holden,

Public Information Officer





# THE COMMONWEALTH OF MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## 1971 Annual Report

The MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION was established in the year 1946 with a single purpose; i.e., *to protect the rights of ALL the citizens of the Commonwealth by enforcing this State's anti-discrimination laws.*

The MCAD's legal jurisdiction covers discriminatory practices in the following areas:

EMPLOYMENT	because of	RACE, COLOR, SEX, AGE, RELIGIOUS CREED, NATIONAL ORIGIN or ANCESTRY.
HOUSING	because of	RACE, COLOR, SEX, AGE, RELIGIOUS CREED, NATIONAL ORIGIN, ANCESTRY, STATUS AS A VETERAN, MEMBER OF THE ARMED FORCES or WELFARE RECIPIENT.
PUBLIC ACCOMMODATIONS	because of	RACE, COLOR, RELIGIOUS CREED, NATIONAL ORIGIN, ANCESTRY or SEX.
SCHOOL ENROLLMENT	because of	RACE, COLOR, RELIGIOUS CREED, NATIONAL ORIGIN or ANCESTRY.

It is the function and responsibility of the MCAD to establish, execute and maintain an effective and positive program for enforcement of the Commonwealth's laws which have been enacted for the sole purpose of ensuring all people of

this State equal opportunities in those areas which are listed above. Toward fulfillment of this responsibility and execution of this function, the following MCAD internal organization has been established:

- four commissioners
- ten divisions:
  - Administration
  - Affirmative Action
  - Community Relations
  - Compliance
  - Education
  - Field Operations
  - Legal
  - Public Information
  - Research
  - Sex and Age
- two Federal Grant programs:
  - Equal Employment Opportunity Commission (EEOC)
  - Housing and Urban Development (HUD)

There are four MCAD offices operating within the State. The main office is located in Boston and branch offices are located in New Bedford, Springfield and Worcester. The total MCAD staff numbers less than 78; however, this comparatively small workforce has the giant-size responsibility to ensure protection of the Commonwealth's nearly six-million citizens against unlawful acts of discrimination.

In order to spread the message of its function to ALL the people of the Commonwealth, this Commission during the year 1971 broadened the scope and intensity of its public information programs.

The Commission finds the first-step toward fulfillment of its commitment to the people is to *reach* the people, and this has been the basic purpose of our broadened and extensive effort to educate the citizens as to our function.

It has been determined that *direct citizen contact* is the best possible way to get our message to the people. It has also been determined that support from the press, radio and television establishments operating throughout the Com-



monwealth and maximum use by the commission of various types of visual aids and printed material, as well as an effective public speaking program, provide the most direct channels through which we can realize our goal to actually reach the people, to relate the message of our responsibility, and to actually help them by protecting their rights.

The MCAD is most grateful for the much-needed support the media throughout the State have extended our public information programs during the year 1971 and, by way of this report, we hereby make public knowledge identification of those media representatives which *most consistently* provided this Commission with the kind of able support and assistance needed to disseminate our message to the people of the Commonwealth (by continuously keeping on air MCAD public service announcements and by constantly presenting MCAD staff members on community-interest programs of half-hour and/or one-hour duration — to talk about the work of the Commission and to educate the public as to the commitment this Commission has to the people):

#### *Television*

WBZ - Channel 4  
(Boston)  
WTEV - Channel 6  
(New Bedford)  
WNAC - Channel 7  
(Boston)  
WWLP - Channel 22  
(Springfield)  
WSMW - Channel 27  
(Worcester)  
WSBK - Channel 38  
(Boston)  
WKBG - Channel 56  
(Boston)

#### *Radio*

*Most* radio stations operating in the State aired MCAD public service announcements regularly; however, the *following* stations provided additional support by airing special program material concerning the Commission's work -

WAAB	(Worcester)
WARE	(Ware)
WBUR	(Boston)
WBZ	(Boston)
WCAT	(Orange)
WCCM	(Lawrence)
WCOP	(Boston)
WCRB	(Boston)
WDEW	(Westfield)

WEEI	(Boston)
WEZE	(Boston)
WILD	(Boston)
WJIB	(Boston)
WKOX	(Framingham)
WLMS	(Leominster)
WMAS	(Springfield)
WNTN	(Newton)
WOCB	(W. Yarmouth)
WORC	(Worcester)
WRKO	(Boston)
WROR	(Boston)
WSRS	(Worcester)
WTAG	(Worcester)
WTTT	(Amherst)
WUNR	(Boston)

Some radio and television organizations put forth an even greater effort to render a public service to the people of the Commonwealth by providing taping and tape-copying and distribution services to the MCAD, in order that this Commission might be able to supply many stations with public service messages; thereby, keeping the message of the agency's function before the people in all corners of the State. Those television and radio stations which readily and frequently provided such assistance to the Commission during 1971 were:

<i>Television</i>	<i>Radio</i>	
WTEV - Channel 6 (New Bedford)	WCOP	(Boston)
WNAC - Channel 7 (Boston)	WJIB	(Boston)
WSBK - Channel 38 (Boston)	WRKO	(Boston)
	WROR	(Boston)

(All taping, tape-copying and tape distribution expenses were absorbed by television stations WTEV, WNAC, WSBK and radio stations WCOP, WJIB, WRKO and WROR — with no cost at all to the State. This Commission is cognizant of the heavy costs involved in such projects and is

especially grateful to these stations for this extra measure of support to our work.)

Many newspapers ran “filler” messages for the Commission during 1971 — to stress the importance of contacting the MCAD when unlawful acts of discrimination are suspected. In addition to this type of support, a number of newspapers ran stories about special projects the Commission was working on from time-to-time during 1971 — based upon information supplied by MCAD press releases which were mailed to the media on a regular basis. Further still, many newspapers ran “special” feature stories about the work of the Commission; among these were:

The BAY STATE BANNER

The BERKSHIRE EAGLE

BOSTON-AFTER-DARK

The BOSTON GLOBE

The BRIDGE

The CHRISTIAN SCIENCE MONITOR

The FALMOUTH STANDARD-TIMES

The LOWELL SUN

The NEW BEDFORD STANDARD-TIMES

The PHOENIX

The QUINCY SUN

The SPRINGFIELD DAILY NEWS

The WALTHAM NEWS TRIBUNE

The WORCESTER GAZETTE

Special gratitude is extended to the *GLOBE* which, through added support of its Circulation Department, assisted the MCAD with distribution of thousands of color posters — throughout the State — in an effort to further educate the people as to the Commission’s responsibility to them.

Exposure to the public by way of the press, radio and television facilities has been only one part of this Commission’s public information program. In addition, we have continued to utilize the following resources:

— *Public display of color posters and placards*

Four-color picture cards were designed and displayed

throughout the State in public places as well as private establishments. These picture cards depicted the message of "equality" and "justice" for all people. Purpose of the posters was to provide citizens of the Commonwealth, in all areas, with knowledge of the function and responsibility of the MCAD and location of MCAD offices.

— *Use of slide projector*

A small slide projector was constantly on display throughout the State to portray in a simple word-and-picture story (living color) the function of this Commission, always giving the office location and telephone number of the MCAD offices serving that particular locale.

— *News Letters*

We send periodic activity summaries to all human rights agencies throughout the country as well as to Federal, state and municipal agencies and civic organizations whose function and purpose are similar to our own. These summaries are to keep these organizations informed as to the work of this Commission and to keep our Commission staff apprised of activities of other agencies.

Also, we prepare news letters for MCAD internal distribution — to keep our own staff apprised of the activity of other departments within our own organization and to, thus, assist in our effort to sustain a correlation of this Commission's over-all activity.

— *Printed literature*

Cards and brochures have been printed in two languages (English and Spanish) to provide the people of the Commonwealth with information concerning the Commission's locations and areas of jurisdiction. This literature was distributed on a continuing basis.

— *Public speaking*

The MCAD staff availed itself of every opportunity to speak before groups of people, in all corners of the State, for the sole purpose of defining and clarifying the function of this Commission and our commitment to the people.

Speaking activity during the year 1971 included representation with educational institutions, health institutions,



civic organizations, private industry, trade unions, religious institutions and groups from many varied areas of professional and community involvement.

— *Press Releases*

The MCAD sends press releases, on a continuing basis, to the media operating throughout the State — for the sole purpose of keeping the people informed as to the Commission's responsibility.

This Commission is, indeed, grateful to *many* persons and organizations for the unselfish support given our State-wide public information programs during the year 1971; however, a special word of gratitude is in order to Mr. Alfred C. Holland, State Purchasing Agent; Mr. Joseph Sherriff, Head Buyer, Printing; Mr. Andy Sweeney, State artist; and the State Central Reproduction facilities (headed by Messrs. LeBuff and Gomes) for their consistent support, professional counsel and guidance to the MCAD's public information programs during the year 1971. It was this support and counsel which made possible the MCAD's execution of a great number of successful public information programs — requiring special art work and printing expertise — at almost no cost to the State.

The Commission's Public Information Department receives and answers thousands of inquiries each year — from representatives of the media and the public — and this Commission welcomes these inquiries. When you seek information relative to this Commonwealth's legislation covering discrimination because of race, color, sex, age, religious creed, national origin, ancestry, and status as a veteran, member of the Armed Forces or welfare recipient, we urge you to call the *MCAD*. Representatives of the *media* should always ask for the Commission's Public Information Department for assistance.

All creative work for the Commission (i.e., color poster design and script, projector living-color picture story, script for television, radio and newspaper messages, literature for both English and non-English speaking citizens of the State) as well as establishment, execution and maintenance of

many other programs designed to keep the *MCAD* before the public and to keep the public informed as to the activity and accomplishments of the Commission was done by the Commission's own Public Information Department, with the able support of the entire MCAD staff and Mr. Andy Sweeney, State artist — and without the expense of outside public relations and/or consultation services.

The MASS COMMISSION AGAINST DISCRIMINATION staff continues to work as a *team* to fulfill the Commission's commitment to the people of the Commonwealth by protecting the rights of *all* citizens in the areas of EMPLOYMENT, EDUCATION, HOUSING and PUBLIC ACCOMMODATIONS. Following, in this report, is a brief summary of each individual department's contribution — during the year 1971 — toward fulfillment of the Commission's over-all commitment to the people. Because the Field Operations Division is the arm of this agency which is vested with the responsibility to receive and investigate all complaints of unlawful discrimination which are filed with us, we consider this particular division the heart of the Commission. For this reason, the FIELD OPERATIONS summary is given first; the others follow in alphabetical sequence.

## FIELD OPERATIONS DIVISION

Carroll Brownlee, Chief  
Luis F. Rodriguez, Assistant Chief

The Field Operations Division investigates all alleged violations of the Commonwealth's anti-discrimination laws which are brought to the attention of this agency. These alleged violations may be in the form of individually-filed, class-action or agency-initiated complaints in *employment* (based on race, color, sex, age, religious creed, national origin or ancestry); *housing* (based on race, color, sex, age, religious creed, national origin, ancestry, status as a veteran, member of the armed forces or welfare recipient); *public accommodations* (based on race, color, religious creed, national origin, ancestry or sex); and *school enrollment* (based on race, color, religious creed, national origin or ancestry).

The Field Operations Division operates with the following staff: a chief, an assistant chief and twenty-one field representatives. Of the 21 field representatives, 17 are assigned to the Boston office; 2 are assigned to the Springfield office, 1 is assigned to the New Bedford office and 1 is assigned to the Worcester office. It is this division which is responsible to answer the thousands of inquiries which come to the MCAD each year regarding various types of unlawful discriminatory practices.

During 1971, a total of 1,017 complaints of unlawful discrimination were filed with this Commission. Of these 1,017 complaints, 707 involved discrimination in employment; 191 involved discrimination in private housing; 65 involved discrimination in public accommodations; 20 involved discrimination in education; 8 involved discrimination in public housing; 23 were "harassment of witness" cases. The remaining 3 complaints were alleged violations of Article III of Executive Order No. 74 (i.e.; the Governor's 1970 Order which states that state agencies must not discriminate against a person because of his/her race, color, religious creed, national origin, ancestry, age or sex).

Each complaint that comes to this Commission is assigned to a field representative, who conducts an investigation of the complainant's allegations — under the supervision of the Chief of the division (or the Assistant Chief) and the Commission's legal staff. The field representative presents the allegations of the complainant to the party charged (the respondent) and obtains the respondent's side of the story. The field representative gathers as much factual information as possible from both the complainant and the respondent to support or refute the complainant's allegations. Each investigation involves the procuring and consideration of both statistical data and testimony of witnesses. Upon receipt from the field representative of a detailed report of the investigation, the investigating commissioner assigned to the case determines whether a probable cause or a lack-of-probable cause finding is in order. Approximately 95% of the complaints which are given probable cause findings are informally conciliated by the investigating commissioner. The remaining 5% are carried to public hearing, which normally results in a formal Order from the Commission.

While the vast majority of investigations are conducted with minimal formality, the MCAD (through efforts of the Field Operations Division) issued several subpoenas in connection with investigations conducted during the year 1971. (In housing complaints where unlawful discrimination was, in fact, found to exist, the property in question was made available to the complainant at the conclusion of the Commission's proceedings.)

The broadened areas of the Commission's jurisdiction, and the resulting increase in number of complaints filed, lessened considerably the availability of the field staff. In order to ensure that this Commission, even with the handicap of a very limited staff, does help every citizen of this Commonwealth who brings complaints of unlawful discrimination before us, the Field Operations Division of the MCAD and our EEOC Grant Program staff continued, during 1971, to develop new and improved techniques for investigating "systemic" (institutional) discrimination — with the Commis-



sion endeavoring to fashion remedies appropriate to the entire class of persons represented by individual complainants. With this approach, a single investigative effort can result in opening doors of employment to many persons, rather than only one individual (the sole complainant).

This division's investigations into practices of systemic discrimination — rooted in many systems of employment, housing and educational situations — involve more investigative man-hours than cases which are not actually "systemic" in nature. The results, however, have proven that the effort is well worth the time.

In addition to investigation and processing of complaints filed with us in areas of our legal jurisdiction, the MCAD is obligated to process complaints which are deferred to us by our Federal counterparts functioning in this area (i.e., the Equal Employment Opportunity Commission, the Department of Housing and Urban Development and the Department of Labor). In turn, this Commission refers to the named Federal agencies complaints which come to us involving investigations in other states and certain legal areas beyond this Commission's jurisdiction.

The Field Operations Division represents the MCAD in many areas involving community organizations and civic effort. We receive many complaints by community-organization referral. The MCAD Field Operations Division's staff continues to be most active in representing the Commission by public speaking engagements as well as participation at educational, labor and housing seminars and workshops.

The MCAD, through efforts of its Field Operations Division, conducted a 1971 survey of minority-group representation in the Commonwealth's major public housing facilities, and results of this survey are made a part of this report.



1971  
HOUSING STATISTICS  
BY AREA

	No. Units	No. Black families	Spanish Speaking families
<b>ARLINGTON</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	308	0	0
For All Other	176	0	0
<b>BARNSTABLE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	64	4	0
For All Other	0	0	0
<b>BOSTON</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	160	27	0
For All Other	3,810	790	88
Federal Program:			
For the Elderly	1,044	299	4
For All Other	10,985	4,352	553
<b>BROCKTON</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	230	1	0
For All Other	174	36	0
Federal Program:			
For the Elderly	517	7	1
For All Other	474	113	10

1971  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
<b>BROOKLINE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	60	0	0
For All Other	291	4	1
State Leased:			
For the Elderly	0	0	0
For All Other	83	2	0
Federal Program:			
For the Elderly	228	1	0
For All Other	72	1	0
Federal Leased:			
For the Elderly	100	2	0
For All Other	0	0	0

**CAMBRIDGE**  
*Housing Authority*

State Program:			
For the Elderly	0	0	0
For All Other	712	109	8
Federal Program:			
For the Elderly	248	31	0
For All Other	893	228	11

**CHELSEA**  
*Housing Authority*

State Program:			
For the Elderly	266	0	0
For All Other	294	0	0

1971  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
Federal Program:			
For the Elderly	0	0	0
For All Other	200	7	1

CHICOPEE

*Housing Authority*

State Program:			
For the Elderly	478	0	0
For All Other	226	0	0

Federal Program:			
For the Elderly	129	0	0
For All Other	178	4	3

CLINTON

*Housing Authority*

State Program:			
For the Elderly	80	0	0
For All Other	34	1	0

Federal Program:			
For the Elderly	0	0	0
For All Other	100	7	5

EVERETT

*Housing Authority*

State Program:			
For the Elderly	280	6	3
For All Other	392	12	5

FALL RIVER

*Housing Authority*

1971  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
State Program:			
For the Elderly	301	0	0
For All Other	427	0	0
Federal Program:			
For the Elderly	749	2	0
For All Other	2,079	44	1

FALMOUTH

*Housing Authority*

State Program:			
For the Elderly	114	2	0

FITCHBURG

*Housing Authority*

State Program:			
For the Elderly	104	0	0
For All Other	264	2	1
Federal Program:			
For the Elderly	104	0	0
For All Other	140	4	2

FRAMINGHAM

*Housing Authority*

State Program:			
For the Elderly	345	3	0
For All Other	185	1	0
Federal Program:			
For the Elderly	0	0	0
For All Other	125	3	3

1971  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
<b>HOLYOKE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	82	0	0
For All Other	301	12	4
Federal Program:			
For the Elderly	250	1	0
For All Other	777	99	67
<b>LAWRENCE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	0	0	0
For All Other	451	19	73
Federal Program:			
For the Elderly	409	0	0
For All Other	600	25	29
<b>LOWELL</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	63	0	0
For All Other	292	21	6
Federal Program:			
For the Elderly	348	0	0
For All Other	1,074	20	27
<b>LYNN</b>			
<i>Housing Authority</i>			



1971  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
State Program:			
For the Elderly	212	7	0
For All Other	524	103	23
Federal Program:			
For the Elderly	276	12	0
For All Other	442	126	9

MALDEN

*Housing Authority*

State Program:			
For the Elderly	165	4	0
For All Other	220	7	2
Federal Program			
For the Elderly	100	5	0
For All Other	250	17	9

MEDFORD

*Housing Authority*

State Program			
For the Elderly	166	0	0
For All Other	316	4	0
Federal Program			
For the Elderly	300	3	0
For All Other	450	6	0

NEW BEDFORD

*Housing Authority*

State Program:			
For the Elderly	75	1	0
For All Other	330	20	0



1971  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
Federal Program:			
For the Elderly	150	4	1
For All Other	1,443	58	48

PITTSFIELD

*Housing Authority*

State Program:			
For the Elderly	208	3	0
For All Other	126	1	0

Federal Program:			
For the Elderly	0	0	0
For All Others	153	39	0

Federal Leased:			
For All Other	130	30	0

PLYMOUTH

*Housing Authority*

State Program:			
For the Elderly	110	0	0
For All Other	156	5	1

REVERE

*Housing Authority*

State Program:			
For the Elderly	245	0	0
For All Other	373	0	0

Federal Program:			
For the Elderly	60	0	0
For All Other	150	0	1

1971  
HOUSING STATISTICS  
BY ARFA (Continued)

	No. Units	No. Black families	Spanish Speaking families
<b>SCITUATE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	80	0	0
For All Other	80	1	0
<b>SOMERVILLE</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	164	1	4
For All Other	456	1	8
Federal Program:			
For the Elderly	142	1	8
For All Other	216	4	4
<b>SPRINGFIELD</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	263	4	0
For All Other	532	255	3
Federal Program:			
For the Elderly	304	54	0
For All Other	609	223	207
<b>TAUNTON</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	0	0	0
For All Other	142	21	8

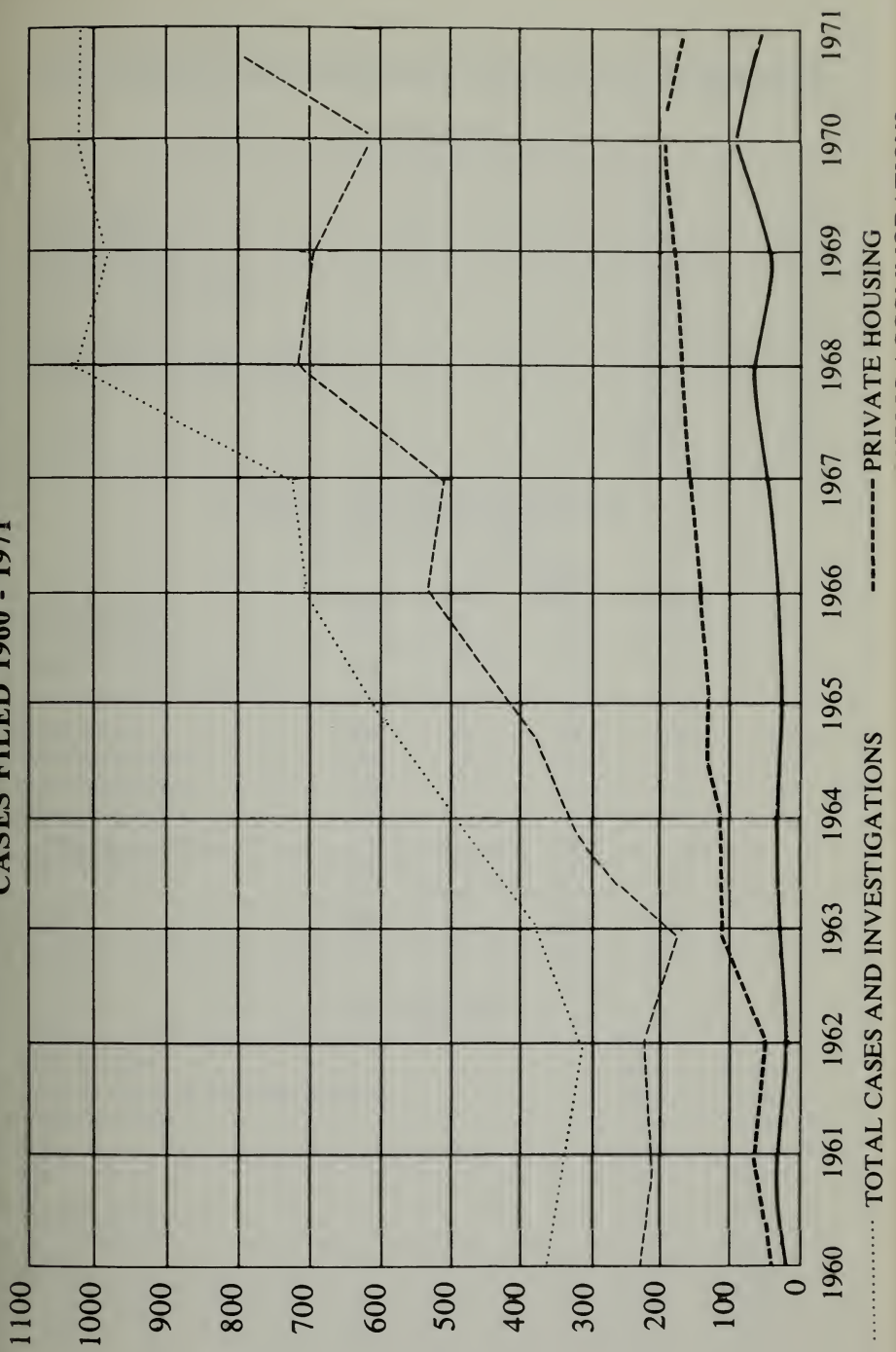
1971  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
Federal Program:			
For the Elderly	154	4	0
For All Other	106	32	11
WALTHAM			
<i>Housing Authority</i>			
State Program:			
For the Elderly	140	0	0
For All Other	301	0	2
Federal Program:			
For the Elderly	145	0	0
For All Other	0	0	0
WATERTOWN			
<i>Housing Authority</i>			
State Program:			
For the Elderly	204	0	0
For All Other	432	0	0
WEYMOUTH			
<i>Housing Authority</i>			
State Program:			
For the Elderly	156	1	2
For All Other	208	1	2
WINTHROP			
<i>Housing Authority</i>			
State Program:			
For the Elderly	206	0	0
For All Other	73	0	0

1971  
HOUSING STATISTICS  
BY AREA (Continued)

	No. Units	No. Black families	Spanish Speaking families
<b>WOBURN</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	94	2	0
For All Other	176	4	0
Federal Program:			
For the Elderly	0	0	0
For All Other	100	3	1
<b>WORCESTER</b>			
<i>Housing Authority</i>			
State Program:			
For the Elderly	75	0	0
For All Other	594	20	9
Federal Program:			
For the Elderly	997	12	0
For All Other	770	88	26

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION CASES FILED 1960 - 1971





# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## Cases Filed 1971

	No.	Pct.
Employment	707	69.5
Private Housing	191	18.8
Public Housing	8	.8
Public Accommodations	65	6.4
Fair Education	20	1.9
Exec. Order No. 74	3	.3
Paragraph No. 4 (Harassment)	23	2.3
Total	1,017	100%

## Complaints and Investigations Filed 1971 (Jurisdiction and Office)

	Boston	New Bedford	Spring- field	Worcester	Total
Private Housing	125	15	19	17	176
Public Housing	5	0	1	1	7
Public Accommodations	44	5	5	4	58
Fair Education	2	0	0	0	2
Employment	364	22	55	20	461
Sex-Employment	129	4	14	8	155
Age-Employment	38	2	4	5	49
Paragraph No. 4	19	1	1	1	22
Executive No. 74	3	0	0	0	3
Investigations	71	4	3	6	84
Total	800	53	102	62	1,017

## Cases Filed 1971

	No.	Pct.
Race & Color	637	62.6%
National Origin & National Ancestry	101	9.9%
Religious Creed	26	2.5%
Sex	172	16.9%
Age	56	5.0%
Welfare Status	1	0.1%
Armed Services	0	0.0%
Class	1	0.1%
Harrassment (par. No. 4)	23	2.3%
Total	1,017	99.9%



# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## Complaints and Investigations Filed 1971 (Jurisdiction and Basis)

	Emp.	PrH	PH	PA	Educ.	Par No.4	Exec. No.74	Total
Race	53	15	1	2	2	-	-	73
Color	342	155	5	48	13	-	1	564
Religious Creed	21	2	0	2	1	-	-	26
National Origin	64	14	2	5	4	-	2	91
National Ancestry	6	3	0	1	0	-	-	10
Sex	165	1	0	6	-	-	-	172
Age	56	0	0	0	-	-	-	56
Class	-	-	0	1	-	-	-	1
Armed Services	*	-	0	-	-	-	-	0
Welfare Status	-	1	0	-	-	-	-	1
Paragraph No. 4	-	-	-	-	-	23	-	23
Total	707	191	8	65	20	23	3	1,017

\* - Signifies no jurisdiction in this area

## Cases Filed 1971 (Basis and Type)

	Commission Initiated Complaints	Individually Filed Complaints	Investiga- tions	Total
Race	12	59	2	73
Color	22	493	49	564
Rel. Creed	0	20	6	26
Nat'l Origin	1	81	9	91
National Anc.	0	10	0	10
Sex	11	151	10	172
Age	0	49	7	56
Class	0	1	0	1
Armed Services	0	0	0	0
Welfare Status	0	1	0	1
Par. No. 4	0	22	1	23
Total	46	887	84	1,017



# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## Cases Filed 1971 (Jurisdiction and Type)

	Commission Initiated Complaints	Individually Filed Complaints	Investiga- tions	Total
PrH	18	157	16	191
PH	0	7	1	8
PA	3	55	7	65
Educ.	1	1	18	20
Emp.	13	446	27	486
Sex-Employment	11	146	8	165
Age-Employment	0	50	6	56
Exec. No. 74	0	3	0	3
Par. No. 4	0	22	1	23
Total	46	887	84	1,017

## ASSIGNMENT OF CASES PER COMMISSIONER FOR 1971

	Burres	Martin	Shapiro	Putnam	Total
Private Housing	20	53	48	55	176
Public Housing	1	1	4	1	7
Public Accommodations	6	25	10	17	58
Employment	54	129	98	172	453
Sex	18	43	38	53	152
Age	4	14	15	16	49
Par No. 4	1	5	3	12	21
Exec. No. 74	0	1	0	2	3
Investigations	3	30	18	32	83
Education	0	2	0	0	2
Total	107	303	234	360	1,004

\*There were 13 additional cases opened in 1971 that have not been assigned to specific Commissioners.

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION BOSTON OFFICE

## COMPLAINTS & INVESTIGATIONS FILED 1971 (Jurisdiction & Basis)

	EMP	PRH	PH	PA	Educ.	Par. No. 4	Exec. No. 74	Total
Race	43	10	1	1	2	0	0	57
Color	262	117	3	36	10	0	1	429
Rel. Creed	21	2	0	2	1	0	0	26
Nat'l. Origin	52	9	2	4	4	0	2	73
Nat'l. Ancestry	6	0	0	1	0	0	0	7
Sex	138	0	0	4	0	0	0	142
Age	44	0	0	0	0	0	0	44
Class	0	0	0	1	0	0	0	1
Armed Services	0	0	0	0	0	0	0	0
Welfare Status	0	1	0	0	0	0	0	1
Par. No. 4	0	0	0	0	0	20	0	20
Total	566	139	6	49	17	20	3	800

## BOSTON INVESTIGATIONS OPENED 1971

(Jurisdiction and Basis)

	EMP	PRH	PH	PA	Educ.	Par. no. 4	Total
Race	16	0	0	0	2	0	18
Color	0	11	1	4	8	0	24
Rel. Creed	2	0	0	1	1	0	4
Nat'l. Origin	1	4	0	0	4	0	9
Sex	9	0	0	0	0	0	9
Age	6	0	0	0	0	0	6
Par No. 4		0	0	0	0	1	1
Total	34	15	1	5	15	1	71

## NEW BEDFORD OFFICE

### COMPLAINTS AND INVESTIGATIONS FILED 1971

(Jurisdiction and Basis)

	EMP	PRH	PH	PA	Educ.	Par. no. 4	Total
Race	8	5	0	1	0	0	14
Color	13	7	0	5	0	0	25
Rel. Creed	0	0	0	0	0	0	0
Nat'l. Origin	3	0	0	0	0	0	3
Nat'l. Ancestry	0	3	0	0	0	0	3
Sex	4	0	0	1	0	0	5
Age	2	0	0	0	0	0	2
Par No. 4	-	-	-	-	-	1	1
Total	30	15	0	7	0	1	53

## NEW BEDFORD INVESTIGATIONS

Filed 1971

	Emp.	PA	Total
Color	1	2	3
Race/Color	1	0	1
Total	2	2	4

## SPRINGFIELD OFFICE

### COMPLAINTS AND INVESTIGATIONS FILED 1971

(Jurisdiction and Basis)

	Emp.	PrH	PH	PA	Educ.	Par. no. 4	Total
Race	1	0	0	0	0	-	1
Color	48	18	1	4	0	-	71
Rel. Creed	0	0	0	0	0	-	0
Nat'l. Origin	6	2	0	0	0	-	8
Nat'l. Ancestry	0	0	0	0	0	-	0
Sex	15	0	0	1	0	-	16
Age	5	0	0	0	0	-	5
Par No. 4	-	-	-	-	-	1	1
Total	75	20	1	5	0	1	102

## SPRINGFIELD INVESTIGATIONS

Filed 1971

	Emp.	PrH	Total
Color	0	1	1
Sex	1	0	1
Age	<u>1</u>	<u>-</u>	<u>1</u>
Total	2	1	3

## WORCESTER OFFICE

### COMPLAINTS AND INVESTIGATIONS FILED 1971

(Jurisdiction and Basis)

	Emp.	PrH	PH	PA	Educ.	Par. no. 4	Total
Race	1	0	0	0	0	0	1
Color	19	13	1	3	3	0	39
Rel. Creed	0	0	0	0	0	0	0
Nat'l. Origin	3	3	0	1	0	0	7
Nat'l. Ancestry	0	0	0	0	0	0	0
Sex	8	1	0	0	0	0	9
Age	5	0	0	0	0	0	5
Par No. 4	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1</u>	<u>1</u>
Total	36	17	1	4	3	1	62

## WORCESTER INVESTIGATIONS

Filed 1971

	Emp.	Educ.	Total
Color	2	3	5
Natural Origin	<u>1</u>	<u>0</u>	<u>1</u>
Total	3	3	6

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## Disposition of Cases Closed in 1971 By Commissioner

	Burres	Martin	Shapiro	Putnam	Total
Lack of Probable Cause	21	81	97	120	319
Conciliated	5	28	41	56	130
Withdrawn	0	13	17	17	47
Lack of Jurisdiction	1	6	5	14	26
*Changed to Complainant	0	3	0	0	3
**Other	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Total	27	131	160	200	526

\*This Category for final disposition is only applicable to investigations.

\*\*In this instance the complainant died before investigation was completed.  
In 1971 there were an additional 22 cases closed after being certified for public hearings.

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

## DISPOSITION OF CASES CLOSED IN 1971

Final Disposition	Employment	Sex	Age	Private Housing	Public Housing	Public Accommodations	Investigations	Par No. 4	Educational	Total Closed
Lack of Probable Cause	144	56	19	66	1	9	21	1	2	319
Conciliated	31	21	6	42	8	10	12	0	0	130
Withdrawn	25	6	5	8	0	0	2	1	0	47
Lack of Jurisdiction	6	10	2	6	0	1	1	0	0	26
*Changed to Complainant	0	0	0	0	0	0	3	0	0	3
**Other	0	0	0	0	0	0	1	0	0	1
Agreed Settlement	0	1	0	2	0	0	0	0	0	3
Dismissed	3	0	1	4	0	1	0	0	0	9
Cease & Desist	1	1	0	6	0	1	0	0	1	10
Total	210	95	33	134	9	22	40	2	3	548

\*This category for final disposition is only applicable to investigations.

\*\*In this instance the complainant died before investigation was completed. There are 6 cases that were closed in 1971, after public hearings that have been, or are being, considered for Judicial Review.



# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

Disposition of Cases Opened in 1971

As of December 31, 1971

Final Disposition	Employment	Age	Sex	Private Housing	Public Housing	Public Accommodations	Investigations	Par No. 4	Total Closed
Lack of Probable Cause	79	8	27	35	0	6	9	2	166
Conciliated	7	4	4	24	0	4	2	0	45
Withdrawn	10	3	6	5	0	3	1	0	28
Lack of Jurisdiction	2	0	1	7	0	1	1	0	12
Agreed Settlement	0	0	1	1	0	0	0	0	2
Dismissed	0	0	0	2	0	0	0	0	2
Cease & Desist	0	0	1	1	0	0	0	0	2
Total Closed	98	15	40	75	0	14	13	2	257

(1017 cases were opened in 1971)

# MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

Disposition of Cases Opened in 1970  
As of December 31, 1971

Final Disposition	Employment	Sex	Age	Private Housing	Public Housing	Public Accommodations	Investigations	Par No. 4	Total Closed
Lack of Probable Cause	93	44	16	49	2	12	10	2	228
Conciliated	33	33	3	58	9	10	7	0	153
Withdrawn	16	5	5	4	0	0	1	1	32
Lack of Jurisdiction	3	11	1	6	0	0	3	1	25
Agreed Settlement	1	0	0	5	0	0	0	1	6
Dismissed	3	0	0	0	0	0	0	0	3
Cease & Desist	1	0	0	4	0	0	0	0	5
Total Closed	150	93	25	126	11	22	21	4	452

(1005 Cases were opened in 1970)

THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation of

MR. RAYMOND JACKSON and  
MRS. AGNES JACKSON  
54 Bonair Street  
Somerville, Middlesex County

COMPLAINANTS

FINDINGS OF FACT  
CONCLUSIONS OF  
LAW, AND ORDER

AGAINST

GIOVANNI DiNATALE  
138 Summer Street  
Somerville, Middlesex County

RESPONDENT

COMPLAINT No

PrH XI-123-C

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, by David Burres, Acting Hearing Chairman and Gordon A. Martin, Jr. and Ben G. Shapiro, Hearing Commissioners, finds that the respondent, Giovanni DiNatale, 138 Summer Street, Somerville, Massachusetts, has not engaged in unlawful practices as defined in Chapter 151B, section 4, paragraph 7 of the General Laws of Massachusetts and states its findings as follows:

**FINDINGS OF FACT**

1. The complainants are a racially mixed couple who now reside at 54 Bonair Street, Somerville, Massachusetts. Mrs. Jackson is white and Mr. Jackson is non-white.

2. Respondent, Giovanni DiNatale is the owner of a two family apartment building located at 138 Summer Street, Somerville, Massachusetts, and resides on the first floor therein. He is white.

3. On or about March 8, 1969, the complainants were shown the second floor apartment at 138 Summer Street by respondent's wife. Respondent was working in the kitchen

at the time and saw Mr. Jackson. However, he did not see Mrs. Jackson until both she and her husband returned to the apartment a second time. This second visit was after the complainants had tendered a deposit of \$140.00 but before they actually moved in.

The complainants did in fact move into the second floor apartment two or three days after first seeing the premises. They did this in spite of the fact that the apartment was not ready for occupancy inasmuch as the respondent was remodeling the kitchen and in spite of the fact that respondent had asked them to postpone their occupancy for two or three weeks until renovations were completed.

4. At times during their tenancy the complainants were without hot water in their apartment although the respondent suffered from the same lack of hot water in his apartment. In addition, the respondent caused holes to be made in the kitchen ceiling and floor as he removed the chimney therein. However, he covered these holes with plywood. Furthermore, the respondent barred the second floor porch door by placing a board across it as a precaution against anyone being struck by falling bricks from the chimney being constructed outside.

5. The Commission finds as a fact that the grievances of the complainants adduced at the hearing, relating to their living conditions and personal relationships between them and the respondent, are not attributable to, and were not caused by, the complainant Raymond Jackson's race.

## CONCLUSIONS OF LAW

1. The apartment located at 138 Summer Street, Somerville, Massachusetts, comes within the definition of "other covered housing accommodations" within the meaning of Clause 13 of section 1 of G.L. c. 151B.

2. The course of conduct and dealings of the respondent with respect to the complainants were not such as to constitute unlawful practices within the meaning of Chapter 151B, section 4, clause 7 of the General Laws.

Therefore, pursuant to Chapter 151B, section 5 of the General Laws, it is hereby

ORDERED by the Massachusetts Commission Against Discrimination that the complaint be and hereby is DISMISSED.

Any person aggrieved by an order of the Commission may obtain judicial review thereof, pursuant to section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this order.

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DAVID BURREN  
Acting Hearing Chariman

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GORDON A. MARTIN, JR.  
Hearing Commissioner

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BEN G. SHAPIRO  
Hearing Commissioner

Date: January 29, 1971





THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

MARJEAN MARTIN

34 Courte Real Road

East Falmouth, Barnstable County

COMPLAINANT

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDERS

AGAINST

HERMINIA A. VEIGA

178 Main Street

Falmouth, Barnstable County

and

COMPLAINT NO.

70-NBPrH-7-C

ONDINA CABRAL

179 Main Street

Falmouth, Barnstable County

RESPONDENTS

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, before David Burres, Acting Chairman and Hearing Commissioners Ben G. Shapiro and Gordon A. Martin, Jr., finds that the respondents Herminia A. Veiga and Ondina Cabral have engaged in unlawful practices as defined in Chapter 151B, section 4, paragraph 6 of the General Laws of Massachusetts and states its findings as follows:

**FINDINGS OF FACT**

1. The complainant, Marjean Martin, is married and resides at 34 Courte Real Road, East Falmouth, Barnstable County, Massachusetts. Mrs. Martin is Black.

2. Respondent Herminia A. Veiga, at the time the discriminatory acts took place, was the owner of a dwelling which contained three separate living units located at 178 Main Street, Falmouth. She is Caucasian.

3. Two of the above mentioned living units (hereinafter referred to as apartments) were located on the first floor. On April 4, 1970 one of the apartments on the first floor was occupied by the Respondent Herminia A. Veiga. The second apartment on the first floor was occupied by the niece of Respondent Herminia A. Veiga. The niece paid no rent but prepared meals for Respondent Herminia A. Veiga and generally watched over her. In the past this apartment had been rented. The third apartment was located on the second floor and was for rent on April 4, 1970. Each of the apartments contained a separate bathroom and kitchen.

4. Respondent Ondina Cabral is the daughter of Respondent Herminia A. Veiga, and had been authorized by her mother to rent the second floor apartment in the dwelling located at 178 Main Street, Falmouth. She is Caucasian.

5. On March 23, 1970, the complainant observed a sign in the window of the Ox-Bow Motel on Main Street, Falmouth, which read "Apartment for Rent." The sign referred to an apartment in the dwelling at 178 Main Street, Falmouth. The complainant entered the Motel and spoke with respondent Ondina Cabral about renting the apartment on a yearly basis.

6. Ondina Cabral refused to show the apartment to the complainant on the basis that other people were coming to look at it and that her mother, respondent Herminia A. Veiga, had not made up her mind whether to rent the apartment on a yearly or summer rental basis.

7. On Saturday, April 4, 1970, the complainant told her employer Attorney Steven Grindle of the difficulty that she was experiencing in her effort to rent an apartment and requested that Mr. Grindle inquire as to the availability of the apartment at 178 Main Street, Falmouth. Mr. Grindle went to the Motel and told the respondent Ondina Cabral that he was interested in the apartment. Ondina Cabral informed Mr. Grindle that the apartment was available on a yearly rental. The terms of the rental were acceptable to both parties and it was mutually agreed that Mr. Grindle would return the following Monday with his wife and would rent the

apartment if his wife concurred.

8. Later that afternoon, Mr. Grindle returned to the Motel and informed Mrs. Cabral that his wife thought the apartment to be too small but that his secretary was interested in an apartment. He then inquired of Mrs. Cabral whether she would show the apartment to his secretary. The respondent agreed to show the apartment to Mr. Grindle's secretary. At that time Mr. Grindle returned to his car and informed the complainant and his colleague, Attorney Robert Terry, that they could see the apartment. The three, accompanied by Mrs. Cabral, inspected the apartment. Mrs. Cabral then said that after discussing the matter with her mother, respondent Veiga, they had decided to rent the apartment on a summer-rental basis. The complainant then attempted to put a deposit for yearly rental but Mrs. Cabral refused to accept the deposit.

9. The Commission found from the evidence at the hearing herein that the complainant and her child were forced to reside in an inadequate apartment as a result of the actions of the respondents Herminia A. Veiga and Ondina Cabral. The Commission further found that not only has the complainant suffered hardship as a result of these actions, but that the emotional strain of being unable to locate adequate housing for her family, adversely affected her work performance and ultimately forced her to resign from her position as a legal secretary for Legal Service for Cape Cod and the Islands.

## CONCLUSIONS OF LAW

1. The apartment in question in this proceeding located at 178 Main Street, Falmouth, Massachusetts, comes within the definition of multiple dwelling housing within the meaning of Chapter 151B, section 4, paragraph 6 of the General Laws of Massachusetts.

2. The course of conduct, statements and dealings of the respondent Herminia A. Veiga, through her agent or servant Ondina Cabral, with respect to the complainant Marjean

Martin was such as to constitute a denial to and withholding from the complainant of said apartment because of her race and color and constituted an unlawful practice within the meaning of Chapter 151B, section 4, paragraph 6 of the General Laws.

## ORDERS

On the basis of the foregoing and pursuant to the General Laws of Massachusetts, Chapter 151B, section 5 it is hereby ORDERED by the Massachusetts Commission Against Discrimination, that the respondents, their agents and servants:

1) Henceforth and in the future cease, desist and refrain from any inquiry, distinction, discrimination or restriction on account of race, color, religion, national origin or ancestry in the rental or offering for rent of any housing accommodations owned or controlled by the respondents and from denying or causing to be denied on the basis of race, color, religion or national origin or ancestry the opportunity to rent or lease or negotiate for the rental or lease of said housing accommodations.

2) Pay to the complainant Marjean Martin the sum of \$600. The damages are computed as follows:

Hardship, inconvenience and mental suffering \$600.00

3) Report to this Commission within thirty (30) days from date of service of this Order on what steps the respondents have taken or are taking to comply with the above Order.

Any person claiming to be aggrieved by an award of damages by the Commission may seek review thereof pursuant to section 5 of Chapter 151B of the General Laws. Such proceeding must be instituted within ten (10) days of notice of such award. Any person aggrieved by an Order of the Commission may obtain judicial review thereof pursuant to section 6 of Chapter 151B of the General Laws. Such proceed-

ing must be instituted within thirty (30) days after service of this Order.

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DAVID BURRES

Acting Chairman

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BEN G. SHAPIRO

Hearing Commissioner

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GORDON A. MARTIN, JR.

Hearing Commissioner

Date: February 26, 1971







THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation of

CAROL J. PIMENTEL

57 Cottage Street

New Bedford, Bristol County

COMPLAINANT

FINDINGS OF FACT

CONCLUSIONS OF LAW

AND ORDERS

NB-IV-4-C

AGAINST

OLD COLONY TRANSPORTATION, INC.

676 Dartmouth Street

South Dartmouth, Bristol County

RESPONDENT

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, by Glendora M. Putnam, Hearing Chairman, and David Burres, Hearing Commissioner, finds that the respondent Old Colony Transportation, Inc., has engaged in unlawful practices as defined in Chapter 151B, Section 4, paragraph 1 of the General Laws of Massachusetts, Hearing Commissioner Gordon A. Martin, Jr. dissents. The Commission states its findings as follows:

FINDINGS OF FACT

1. The Complainant, Carol J. Pimentel resides at 57 Cottage Street, New Bedford, Massachusetts. Carol J. Pimentel is non-white.

2. Complainant commenced employment with Respondent, Old Colony Transportation, Inc., on or about February 9, 1966. Her last position with the Respondent was a statistics clerk.

3. On Monday, March 17, 1969, the Complainant gave two weeks notice of resignation effective Friday, March 28, 1969. Said notice was accepted by Mr. Burt Pratt, Respondent's controller.

4. Within a few hours, Complainant asked Mr. Pratt if she could work through the third day of April. Mr. Pratt refused to extend her final work day and as a result the complainant was precluded from being eligible for vacation pay.

5. Clerical employees of Respondent's Company, of which the Complainant was one, were not members of a union and therefore there was no union contract which specifically spelled out any prerequisites for earning and qualifying for vacation pay.

There was, in fact, no written Company policy on this subject as it related to clerical employees. Clerical employees believed that there was a vacation period which extended from April 1 to October 31, and they further believed that in order to qualify for vacation pay they must have been an employee for a full year prior to April 1 of any given year.

However, Company employees did not acquire this understanding through any official communication from the Respondent Company. They learned of this situation by word of mouth from fellow workers.

6. On at least two occasions clerical employees were permitted to take their vacations prior to the April 1 date. However, when the Complainant asked to take her vacation in the month of January this request was denied by Respondent Company's Office Manager — Mr. Norman Sylvia.

On two other occasions employees who had given notices to resign were permitted to rescind their decisions and continue working yet the Complainant was not permitted to do so.

The employees involved in the four occasions described above were white.

## CONCLUSIONS OF LAW

1) The Respondent Company is an employer doing business in the Commonwealth of Massachusetts and subject to the provisions of Chapter 151B of the General Laws of Massachusetts.

2) The course of conduct of the Respondent Company

through its officers and management, was such as to amount to a discriminatory application of certain terms, conditions or privileges of employment with respect to the Complaint, solely because of the Complainant's race or color, and as such, constituted a violation of Chapter 151B, Section 4, paragraph 1 of the General Laws of Massachusetts.

## ORDERS

On the basis of the foregoing and pursuant to section 5 of Chapter 151B of the General Laws of Massachusetts, it is hereby ORDERED by the Massachusetts Commission Against Discrimination that the Respondent Company:

1) Pay to the Complainant, Carol J. Pimentel, the sum of \$148.00 — Damages are computed as follows:

2 weeks vacation pay ..... \$148.00

2) Report to this Commission within thirty days from the date of service of this order as to what steps Respondent has taken or is then taking to comply with the foregoing order.

Any person claiming to be aggrieved by an award of damages may seek review thereof pursuant to Section 5 of Chapter 151B of the General Laws. Such proceeding must be instituted within ten (10) days of notice of such award.

Any person aggrieved by an Order of the Commission may obtain judicial review thereof, pursuant to section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this order.

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GLENDORA M. PUTNAM  
Hearing Chairman

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DAVID BURREN  
Hearing Commissioner

Hearing Commissioner Gordon A. Martin, Jr. dissents,

finding the following facts:

1. Paragraphs 1 through 5 of the majority's findings of fact are incorporated hereby and made a part of this dissent.

2. The only clerical employees who were permitted to take their vacations prior to the normal period had particular family circumstances which caused the Respondent Company reasonably to vary its normal practices.

3. The only employees who had given notices to resign, yet were permitted to rescind their decisions and continue working, had apparently decided to remain with the Respondent Company indefinitely.

4. Complainant's requested delay of her resignation date was only for six days and, if granted, would have had the effect of making her eligible for her two weeks vacation pay.

5. Respondent Company's refusal to delay Complainant's resignation date was an economic one, motivated by the desire to avoid paying vacation pay in the amount of \$148 unnecessarily to the Complainant. It may not have been admirable, but there is no evidence that it was related to her color or race, and the complaint should therefore be dismissed.

GORDON A. MARTIN, JR.  
Dissenting Hearing Commissioner

DATE: March 3, 1971



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation of

GWENDOLYN M. WILLIAMS  
4660 Nichoes Avenue, S.E.,  
Windgate House, Apt. B-1005  
Washington, D.C.

COMPLAINANT

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDERS

COMPLAINT No.  
XXIV-361-C

vs.

TOWN OF HANSON SCHOOL COMMITTEE,  
and  
TOWN OF HANSON SCHOOL DEPARTMENT  
and

EDMUND CALLAHAN, Program Supervisor  
92 Pine Drive  
Hanson, Plymouth County

RESPONDENTS

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, by Glendora M. Putnam, Hearing Chairman and Gordon A. Martin, Jr., and Ben G. Shapiro, Hearing Commissioners, finds that the Respondents, Town of Hanson School Committee, Town of Hanson School Department and Edmund Callahan, Program Supervisor, have not engaged in unlawful practices as defined in Chapter 151B, Section 4, paragraph 1 of the General Laws of Massachusetts and states in findings as follows:

**FINDINGS OF FACT**

1. The Complainant, Gwendolyn M. Williams, resided with her parents at 23 Hazel Street, Brockton, Mass., at the time the complaint was filed. The Complainant is non-white.
2. On May 13, 1969, Complainant's brother Mr. Samuel

Williams Jr., a Job Specialist with the Brockton Self-Help Center, called Complainant to inform her that he and Miss Sheryl Hirst, also of the Center, had arranged an interview for her for a teaching position in Hanson with the respondent Callahan. The interview was scheduled for the following day at the Self-Help Center in Brockton.

3. At 9:30 a.m., May 14, 1969 the Complainant met with Respondent Callahan at the Center. Also in attendance at the interview, in an observing capacity, was Mr. Joseph Francis D'Antonio, Guidance Counselor at the Indian Head School in Hanson. Mr. D'Antonio and Respondent Callahan were co-chairmen of the Hanson Self-Help Council and had planned to be at the Brockton Center on May 14 for a meeting in this connection, prior to learning that this interview was to be given on that day as well.

During the course of the interview Complainant related her qualifications and teaching experience. In particular she mentioned an unpleasant experience she underwent at the Paul A. Dever School wherein on a number of occasions she arrived late for work because of transportation difficulties and was physically prevented from entering the school by the Principal, despite the fact that he was personally aware of the problems Complainant encountered in commuting to School from Brockton. Complainant was eventually forced to leave the Dever School in December 1968 and shortly thereafter secured employment in the Brockton School system as a substitute teacher.

At the termination of the interview, complainant furnished four (4) names of persons for references. Complainant requested that she be considered primarily for a second grade position but that she would accept any of the elementary grades. Her principal interest, however, was in grades one through four. Respondent Callahan informed her that there was a second grade opening in the Hanson School Department and that he would get in touch with her later.

On May 17, 1969, the Complainant received an application for employment in the Hanson School Department. On May 21, 1969 Complainant received a letter from Respon-



dent Callahan requesting that her completed application be submitted as soon as possible. Complainant subsequently completed her application and on May 28, 1969 returned it by mail to the Hanson School Department.

On May 20, 1969, prior to the date Miss Williams' application was received by the Hanson School Department, Mr. Albert E. Kiernan, Superintendent of Schools nominated and the School Committee elected a Mrs. Alpert and a Mrs. Gregory to be teachers for grades 2 and 5 respectively; other elementary vacancies remained, however.

On June 2, 1969 Miss Williams' application was received by Mr. Kiernan and her references sent for. In as much as none of the reference names provided by Miss Williams on her application were of former principals or administrators for whom she had previously worked, Mr. Kiernan sent out further requests for references to the principals of schools where she was formerly employed. This was the standard practice in such instances.

On June 3, 1969, the day after Miss Williams' application was received by Mr. Kiernan, a Miss Coleman was nominated to a grade 4 teaching position and elected thereto by the Hanson School Committee.

On June 11, 1969, James A. Supple, principal of the Paul A. Dever School, responded to Mr. Kiernan's request for a reference. Mr. Supple indicated that he was not acquainted with Miss Williams but that the record indicated that she had taught grade 2 at the school and that the Personnel Office at 15 Beacon Street, Boston would have more information.

On June 12, 1969, two references were received by Mr. Kiernan's Office. The principal of the Peter Faneuil School in Boston indicated that Miss Williams had been employed for three (3) months (March 20, 1967 - June, 1967) and was an average teacher. Reverend G. Daniel Jones, a part-time substitute teacher and minister, spoke very highly of Miss Williams and her teaching in the church school.

On June 16, 1969 Mr. Kiernan's Office received a reference from the Nathan Hale School. The principal, Miss

Francis Cazanove, indicated no knowledge of Miss Williams and suggested that Miss Williams must have taught at the school before she had assumed the office of Principal.

On June 17, 1969 a reference was received from a Mr. Mason, a high school teacher in Brockton. Mr. Mason rated Miss Williams very highly and felt that she would be an asset to the Hanson School System. This reference was weighed as a high school teacher rating an elementary school teacher of whose teaching qualifications he had no first-hand knowledge.

Also on June 17, 1969, Mr. Kiernan nominated a Mrs. Cheyunski to a grade 1 teaching position and she was elected thereto by the school committee. Miss Williams was considered by Mr. Kiernan for this position as well but her papers and references were not complete, as described above, whereas Mrs. Cheyunski's papers were complete and reflected a more favorable academic picture, in Mr. Kiernan's judgment.

A grade 3 teaching contract was issued to a Miss Chekoulis on July 17, 1969, and the last elementary position for the 1969-70 academic year was given to a Miss Storm on August 25, 1969. She filled a vacancy caused by resignation on August 13, 1969.

Miss Williams' references were still being received as late as September 18, 1969. The overall picture provided Hanson school authorities by them was such as to make the decision to hire other candidates understandable.

## CONCLUSIONS OF LAW

1. The course of conduct and dealings of the respondents; Town of Hanson School Committee, Town of Hanson School Department and Edmund Callahan, Program Supervisor were not such as to constitute unlawful practices within the meaning of Chapter 151B, Section 4, clause 1 of the General Laws of Massachusetts.

## ORDERS

The complaint is hereby dismissed.

In accordance with the provisions of Section 6, Chapter 151B of the General Laws, any complainant, respondent or other person aggrieved by such order of the Commission may obtain judicial review thereof. Such proceeding must be instituted within thirty (30) days after the service of this order.

Notwithstanding that the instant complaint has been dismissed, the Commission is by no means satisfied with the processing of Miss Williams' application and is further disturbed by the fact that up until May 1969 there had been only one Black teacher ever employed in the Hanson School System and he was employed in only a part-time teaching capacity during the 1966-67 school year. As of May 1969, the time Complainant in the instant case was interviewed, all teachers and administrators in the Hanson School System were Caucasian.

Pursuant to the Commission's authority under Executive Order No. 74, The Governor's Code of Fair Practices, the Commission hereby orders respondents Town of Hanson School Committee and Town of Hanson School Department, to develop and present to this Commission no later than June 30, 1971 a preliminary program of affirmative action to provide for the employment of Black and other minority personnel on the teaching and administrative staffs.

As a further part of such affirmative action, the Respondents are directed to review the current curricula in the Hanson Schools for the purpose of determining whether or not these curricula fairly and accurately portray the meaning of Black and other minority group cultures.

In order to effectuate this preliminary affirmative action program and such additional programs as may be found to be necessary, it is anticipated that the Respondents will need some professional and technical assistance. The Commission, particularly through its Education and Affirmative

Action Divisons, stands ready to provide such assistance; and the Respondents are directed to cooperate with the staff personnel assigned for that purpose.

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GLENDORA M. PUTNAM  
Hearing Chairman

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GORDON A. MARTIN, JR.  
Hearing Commissioner

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BEN G. SHAPIRO  
Hearing Commissioner

DATE: May 18, 1971



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

DOROTHY MARABLE AND  
MARION MARABLE

COMPLAINANTS

AGAINST

INDEPENDENT TAXI OPERATORS

ASSOCIATION AND

JONES CAB, INC. AND

VITIATO FERNANDES

RESPONDENTS

FINDINGS OF FACT  
CONCLUSIONS OF  
LAW, AND ORDERS

COMPLAINT No.  
PX-IX-8-C

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination before David Burres, Acting Chairman and Hearing Commissioner Ben G. Shapiro find that Respondent Independent Taxi Operators Association has not engaged in unlawful discrimination as defined in Chapter 272, Section 98 of the General Laws of Massachusetts. Hearing Commissioner Gordon A. Martin, Jr. dissents from this finding. Upon the evidence, all of the above mentioned Commissioners find that Respondents Jones Cab, Inc., and Vitiato Fernandes have engaged in unlawful discrimination as defined in Chapter 272, Section 98 of the General Laws of Massachusetts and state their findings as follows:

FINDINGS OF FACT

1. The Complainants Dorothy Marable and Marion Marable are married and reside at 18715 Hilburn Avenue, Hollis, New York. At the time the discriminatory acts took place, Complainants Dorothy and Marion Marable were residents of 53 Slayton Way, Roxbury, County of Suffolk, Massachusetts. Dorothy and Marion Marable are Black.
2. Respondent, Independent Taxi Operators Association is a voluntary association composed of a number of owners of taxi-cabs operating in the Boston Metropolitan Area. Re-

spondent Independent Taxi Operators Association maintains its principal place of business at 223 Albany Street, Boston, Massachusetts.

3. At the time the discriminatory acts took place Respondent, Jones Cab, Inc., was a duly organized corporation with its business address at 1181 Blue Hill Avenue, Roxbury, County of Suffolk, Massachusetts, and was a member of the Respondent, Independent Taxi Operators Association.

4. At the time the discriminatory acts took place Respondent, Vitiato Fernandes was an employee of Respondent, Jones Cab, Inc., and was operating a taxi-cab owned by said Jones Cab, Inc., on Tremont Street in Boston.

5. On the night of March 14, 1969, at approximately 11:45 P.M. Complainants Dorothy and Marion Marable after attending the theatre were seeking a taxi-cab on Tremont Street, to transport them to their home in Roxbury. In response to the verbal summons "taxi", combined with an easily recognizable gesture for signalling a taxi on the part of Complainant Marion Marable, a taxi-cab owned by Respondent Jones Cab, Inc., and operated by Respondent Vitiato Fernandes approached the Complainants Dorothy and Marion Marable on Tremont Street and inquired as to where said Complainants wished to go. Complainant Marion Marable stated they wished to be taken to Academy Homes in Roxbury. Respondent Vitiato Fernandes stated he did not go to Roxbury, left the Complainants Dorothy and Marion Marable standing on Tremont Street and drove away.

6. The Complainants frustrated and angry over the above-mentioned experience continued walking on Tremont Street in an effort to secure another taxi cab. Shortly thereafter the previously identified taxi cab owned by Respondent Jones Cab, Inc. and operated by Respondent Vitiato Fernandes drove by the Complainants and picked up a white couple at the corner of Tremont and Stuart Streets. While the taxi cab remained stopped because of a traffic light, Complainant Dorothy Marable ran to the taxi cab and rapped on the window. When Respondent Vitiato Fer-



nandes rolled the window down, Complainant asked why he would not take her home. The said Respondent stated he did not want to be bothered with Black people and drove off, leaving the Complainants on Tremont Street. The Complainants upset and frustrated by the incident, then returned to their home in Roxbury by public transportation.

7. As a result of Respondent Vitiato Fernandes' refusal to transport the Complainants to Roxbury, the Complainants Dorothy and Marion Marable suffered considerable out of pocket expenses, as well as frustration.

8. There was no evidence of an unlawful discriminatory act on the part of Respondent Independent Taxi Operators Association, nor was there evidence which would hold Independent Taxi Operators Association liable for the discriminatory acts of Respondent Vitiato Fernandes pursuant to the doctrine of Respondent Superior.

## **CONCLUSIONS OF LAW**

1. The taxi cab in question in this proceeding driven by Respondent Vitiato Fernandes and owned by Respondent Jones Cab, Inc., comes within the definition of a) "place of public accommodation" or "common carrier" as defined in Chapter 272, Section 92A, of the General Laws of Massachusetts.

2. The Respondent, Independent Taxi Operators Association, comes within the definition of a place of public accommodation or common carrier as defined in Chapter 272, section 92A of the General Laws of Massachusetts.

3. Course of conduct of the Respondent Jones Cab, Inc., through its agent Respondent Vitiato Fernandes, with respect to the Complainants Dorothy and Marion Marable, were such as to constitute unlawful discrimination within the meaning of Chapter 272, Section 98, of the General Laws of Massachusetts.

4. The conduct of Respondent Independent Taxi Operators Association with respect to the Complainants Dorothy and Marion Marable was not such as to constitute an unlaw-

ful discrimination within the meaning of Section 98, Chapter 272 of the General Laws of Massachusetts.

## ORDER

Upon the basis of the foregoing findings of fact and conclusions of law and pursuant to Section 5, Chapter 151B of the General Laws of Massachusetts, it is hereby

ORDERED by the Massachusetts Commission Against Discrimination:

1. The complaint against Respondent Independent Taxi Operators Association is hereby dismissed.

2. That the Respondents, Jones Cab, Inc., and Vitiato Fernandes et als agents, servants and employees of said Jones Cab, Inc., shall cease and desist from making any distinction, discrimination or restriction on account of Religion, Color, National Origin or Race relative to the admission to or transportation of any person in a taxi cab owned by said Jones Cab, Inc., or operated by said Vitiato Fernandes.

3. Respondent Jones Cab, Inc., shall issue a statement to all agents, servants and employees stating that all persons shall be afforded full and equal accommodations regardless of religious creed, national origin, color or race.

4. Respondent Jones Cab, Inc., and Vitiato Fernandes shall pay to the Complainants Dorothy and Marion Marable the sum of (\$500.00) five hundred dollars. The damages are computed as follows:

- |   |          |
|---|----------|
| 1) Out of pocket expenses.....                          | \$129.00 |
| 2) Hardship, inconvenience<br>and mental suffering..... | \$371.00 |

5. Report to this Commission within thirty (30) days from date of service of this Order on what steps the Respondents have taken or are taking to comply with the above Order.

Any person aggrieved by Order of the Commission may

obtain judicial review thereof pursuant to Section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

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DAVID BURRES  
Acting Chairman

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BEN G. SHAPIRO  
Commissioner

Hearing Commissioner Gordon A. Martin, Jr. concurring in part and dissenting in part:

### **FINDINGS OF FACT**

1. Paragraphs 1-7 of the majority findings are hereby adopted and incorporated as a part of this opinion.

2. The Respondent, Independent Taxi Operators Association, holds itself out to the general public as the operator of facilities for the transportation of persons by taxi cab.

3. The said Respondent maintains a central dispatcher station, telephone answering equipment and garaging facilities for the storage and maintenance of taxi cabs and facilities for the storage and sale of fuel oil for vehicles belonging to members of the Association.

4. The Respondent maintains private stations or stands in the city streets and a centralized telephone number which gives coverage to all parts of the city.

5. The Respondent advertises in the Yellow Pages Advertising Directory and holds itself out to the general public as the operator of the Independent Taxi Operators Association fleet of taxi cabs.

6. Each Independent Taxi Operators Association taxi cab possesses an assigned Independent Taxi Operators Association number and a common decal.

7. The public image that the Association has created and



maintains coupled with the element of the control which it has over the Independent Taxi Operators Association taxi cab induces the general public to rely upon Independent Taxi Operators Association for service.

### **CONCLUSIONS OF LAW**

1. Paragraphs 1-3 of the majority's conclusions of law are hereby adopted and incorporated as a part of this opinion.

2. The conduct of Respondent Independent Taxi Operators Association with respect to the Complainants, Dorothy and Marion Marable constituted unlawful discrimination within the meaning of Section 98, Chapter 272 of the General Laws of Massachusetts.

### **ORDER**

1. I concur with and incorporate herein paragraphs 2-5 of the order of the majority but would add thereto the following:

2. The Respondent Independent Taxi Operators Association shall additionally pay to the complainants \$300 for mental suffering, frustration and inconvenience.

3. The Respondent Independent Taxi Operators Association shall present to the Massachusetts Commission Against Discrimination not later than thirty days from the date of this order a plan to acquaint all Independent Taxi Operators Association drivers with their responsibility to serve all members of the general public regardless of their race, color, national origin or religion, together with Independent Taxi Operators Association's proposals to insure that that policy is, in fact, being carried out.

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GORDON A. MARTIN, JR.  
Hearing Commissioner

Dated: May 26, 1971

COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

SUFFOLK, ss

THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

EXECUTIVE DEPARTMENT

On Relation Of

WILLIE UNDERWOOD (on behalf of  
Christine Underwood, a minor)

COMPLAINT No.

And

EDXIV-1-C

Operation Exodus, Inc.

AGAINST

Joseph Lee

John J. Craven

James W. Hennigan

John J. Kerrigan

Paul R. Tierney

as they are members of the Boston School Committee  
and

Boston School Department

**FINAL DECREE**

This cause came on for hearing before David Burres, Gordon A. Martin, Jr. and Ben G. Shapiro, Commissioners, who upon consideration of all the evidence set forth their Findings of Facts, Conclusions and Orders.

**FINDINGS OF FACT**

I. *The Massachusetts Commission Against Discrimination has jurisdiction with respect to the above-entitled matter pursuant to Massachusetts General Laws c. 151C, §3(a), (e), and following the procedure set forth therein, investigated the case, found probable cause, and, following unsuccessful conciliation, the Massachusetts Commission Against Discrimination issued a complaint and notice under c. 151C, §3e.*

## A. *PROCEDURE*

1. The Complainant Willie Underwood on behalf of Christine Underwood, a minor who is non-white, filed with the Massachusetts Commission Against Discrimination a verified petition on September 16, 1969. Vol. I, p. 6.

2. The Complainant alleged in the verified petition specific acts of discrimination with respect to his daughter, Christine Underwood, by the Roslindale High School and its headmaster, William J. Cunningham, and more generally acts of discrimination with respect to his daughter as a representative of a class of individuals, by the Boston School Committee and the Boston School Department through their administration and implementation of the Open Enrollment Policy of the Boston School Committee. Vol. I, pp. 6-8.

3. The Commission pursuant to Massachusetts General Laws 151C §3(a), held its investigation and found evidence that the alleged acts of discrimination set forth in the complainant's petition represented a citywide pattern. Vol. I, p. 44; Vol. III, pp. 3-6.

4. The Massachusetts Commission Against Discrimination held informal conferences toward conciliation and these efforts were unsuccessful. Vol. I, pp. 30, 38; Vol. II, pp. 3, 23, 49.

5. The Massachusetts Commission Against Discrimination in accordance with the Administrative Procedure Act M.G.L.A. c. 30A §10 and Rules for Adjudicatory Procedure before the Massachusetts Commission Against Discrimination § 5.02 allowed Operation Exodus to intervene in the above proceeding as a concerned party. Vol. I, pp. 14-18, p. 54.

6. The Massachusetts Commission Against Discrimination issued a Complaint (as amended) numbered EDXIV-1-C and Notice dated March 20, 1970 pursuant to M. G.L.A. 151C §3(e). Vol. II, pp. 49-50; Vol. III, pp. 4-6.

7. The respondents filed a verified answer to the Complaint. Vol. III, pp. 7-8.



## B. *RESPONDENTS*

Joseph Lee, Chairman (during 1970)

John J. Craven

James W. Hennigan

John J. Kerrigen

Paul R. Tierney,

as they are members of the Boston School Committee, and the Boston School Department, Respondents in the above-entitled matter are the duly empowered authority for the administration of the Boston Public School System. Administrative notice is taken of the fact that in January 1971 Paul R. Tierney succeeded Joseph Lee as chairman of the respondent school committee.

II. *The present enrollment practices of the Respondent's discriminate on the basis of race and color with respect to admissions at the Junior High School and High School levels within the Boston Public School System.*

### a. *OPEN ENROLLMENT*

1. The Open Enrollment Plan of the Boston School Committee has been defined by the Respondents as a plan to permit admission of students (at parent's request) to attend any school outside the student's neighborhood community. Vol. III, pp. 28-29, pp. 128-130, p. 217; Vol. VIII, pp. 26-27, pp. 97-102, p. 147; Vol. IX, pp. 18-23, p. 96, p. 99.

2. Under Open Enrollment, students request admission to high schools or junior high schools outside of their geographic residence district, where they have not attended a feeder school for the said school. Vol. III, pp. 28-29, pp. 128-130, p. 136; Vol. V, pp. 30-31; Vol. IX, pp. 111-114.

3. A standard procedure for application under Open Enrollment purports to be set out by the Boston School Committee in a pamphlet annually sent to the parents of students. See e.g. Exhibit 4.

4. In actual practice, students apply directly to the school to which they seek admission in the Spring prior to the proposed admission. The application and acceptance

processess then followed by the receiving school may vary according to the administrative procedures established by the headmaster of the receiving school. Vol. III, pp. 129-132, pp. 134-136.

5. Students are notified of decisions on their applications after the first few days or weeks of the opening of the school year, with admissions purportedly based on the following preferential basis.

- a. Students who live in the schools' geographic district.
- b. Students who attended feeder schools immediately prior to application.
- c. All other students.

Applicants from Category "C" are admitted to the extent of available seating. Vol. III, pp. 29-33, pp. 53-57, p. 136, pp. 141-143, p. 196; Vol. V, pp. 30-31; Vol. IX, pp. 106-110, pp. 111, 114. Exhibits 5, 17.

6. At periodic intervals and more frequently at the beginning of the school year each school makes a determination of the available seats in each grade and reports this figure to the School Department Headquarters. Vol. III, pp. 118-120; Vol. VIII, p. 17. Exhibit 9.

7. All decisions regarding the number of seats available and the number of children to be admitted under Open Enrollment are made by the receiving schools alone, generally by the principal of the school, with no review or coordination of the decisions by the School Department. Vol. III, pp. 24-25, p. 145, pp. 191-192; Vol. IV, p. 62, pp. 84-85; Vol. VI, pp. 101-103, p. 154, 158; Vol. VIII, p. 32; Vol. XI, p. 46, Exhibit 13.

8. Despite the absence of assistance by the Respondents, Black students have used and attempted to use the Open Enrollment System in substantial numbers to achieve admission to schools which are not predominantly black and to schools where they believe the standards of education are higher. Vol. IV, pp. 68-77. Exhibit 11, 12, 13;

Vol. VII, pp. 8-10.

9. The Boston School Department's statistical reporting facility has shown that only a small percentage of Black students actually achieve admission to schools having a high white enrollment under the Open Enrollment System. Vol. IV, pp. 72-75.

10. Roslindale High School accepts more students than the school quota as prescribed in the union contract leaving little or no room for students under Category "C", as previously described to be admitted. Vol. III, p. 24, 25, pp. 171-172.

### III. DISCRIMINATORY PRACTICES

1. Local junior high and high school administrators lack centralized supervision by the Boston School Committee and Boston School Department with respect to the operation and implementation of the Open Enrollment System. Vol. III, pp. 29-33, p. 145, p. 191; Vol. IV, pp. 99-102; Vol. V, pp. 8-9; Vol. VI, pp. 8-16; Vol. VII, p. 28, pp. 36-37; Vol. VIII, pp. 11-12, p. 30; Vol. IX, pp. 3-8, pp. 106-110; Vol. X, pp. 5, 13, 22; Vol. XI, p. 15, pp. 60-61, pp. 67-72. Exhibit 17, 28 and 28A.

2. Boundary lines between and within school districts are not formally established by the School Committee or School Department but are, in general, arbitrarily established by principals of neighboring schools. These boundary lines determine white and non-white composition of schools. Vol. III, pp. 39-44, pp. 151-155, pp. 162-163, pp. 197-201, pp. 213-214; Vol. IV, pp. 99-102, pp. 105-108; Vol. VII, pp. 9-11; Vol. IX, pp. 89-91. Exhibit 23-24.

3. Parents and children considering Open Enrollment application are given little information or help and are often misinformed or misled at the schools the children are already attending and by School Department Headquarters. Vol. VII, pp. 7-9, 12-16, 28, 32-33; Vol. VIII, pp. 7-11, pp. 139-149; Vol. IX, pp. 3-10, 18, 26, 27, 35, 77-89; Vol. X, pp. 18-22, Exhibit 4, 25, 26.

4. Although purportedly advised by School Department headquarters to accept Open Enrollment applications on a



first come, first served basis, receiving schools accept Open Enrollment students arbitrarily and subjectively with preferential treatment often given to particular students, including honor roll students. Vol. III, p. 53, pp. 72-74, pp. 88-94, 175, 191-194; Vol. IV, pp. 84-85; Vol. VI, pp. 101-103, p. 154. Exhibit 13, 36.

5. "Available-Seat-Count" figures are not distributed or made easily accessible to students seeking Open Enrollment admissions. Vol. III, p. 147; Vol. IX, pp. 94-96.

6. The formal publication of the Boston School Committee relative to procedures for Open Enrollment application gives little or no information upon which parents may guide themselves and serves primarily to discourage use of the program. Vol. III, p. 147; Vol. VII, p. 28; Vol. IX, pp. 94-96.

7. Parents and students are, in general, discouraged from attempting to make applications under open enrollment by school principals, administrators and guidance personnel. Vol. III, pp. 19-24; Vol. V, pp. 12, 33-35; Vol. VI, p. 28.

8. Preparation of application cards and transfer records are often handled by the local school administrator in an arbitrary manner and without regard to the choices or wishes of the parents. Vol. III, pp. 17-18; Vol. V, p. 12; Vol. VII, pp. 5-8, p. 12. Exhibit 20.

9. Certain students are accepted for admission out of order for available seats. Vol. III, pp. 48-53, p. 102, pp. 161-163, p. 193; Vol. IV, pp. 108-113; Vol. VI, pp. 39-40; Vol. IX, p. 118.

10. Personal interviews with applicants for Open Enrollment, not otherwise required by the School Department or School Committee, have been used to determine the race or color of the applicants and to discourage applicants not desired by the receiving school. Vol. III, pp. 19-25, 120-128, 194-195; Vol. V, pp. 33-35.

11. The percentage of "Out of District" black students admitted to the high schools under Open Enrollment varies

according to the implementation of the program by the principal of the receiving school. Vol. IV, p. 58; Vol. VIII, p. 46, p. 86.

12. The "Seat-Count" of available places is not based on established capacity figures and is a subjective compilation under the direction of the particular school principal which does not reflect an accurate count. Vol. III, pp. 145-150, pp. 191-192; Vol. IV, pp. 27-33; Vol. VI, pp. 34-36, 56-58; Vol. VIII, pp. 18-20; Vol. IX, pp. 91-94; Exhibits 9, 34, 35, 36.

13. The Open Enrollment System is a means of effecting the transfer of students arbitrarily selected. Vol. IV, pp. 102-103; Vol. IX, pp. 109-110.

14. Parents are not informed of available free transportation provided under Chapter 643 of the Acts of 1969 for students under Open Enrollment whose attendance would tend to relieve racial imbalance. Vol. VIII, pp. 62-63, e.g. Exhibit 4.

15. Failure by the Respondents to disseminate adequate information discriminates against students who are less well informed, less aggressive and less helped by their local schools, and tends to defeat stated policy behind Open Enrollment and to hinder the implementation of Racial Imbalance Law.

*IV. The Respondents discriminated against Christine Underwood with respect to her admission to Roslindale High School.*

1. Headmaster William J. Cunningham was the chief admissions officer of Roslindale High School at all times pertinent to the complaint. Vol. III, p. 24.

2. Christine Underwood was academically qualified for admission to grade 10 of Roslindale High School for the school year commencing in September 1969. Vol. III, pp. 26-27.

3. In June 1969, Christine Underwood applied for admission to grade 10 of Roslindale High School for the academic year commencing in 1969. Vol. III, pp. 10-

11; Vol. V, pp. 11-12.

4. When William J. Cunningham interviewed the petitioner, Willie Underwood, and the wife of said petitioner, Berdel Underwood, he attempted to discourage each of them from having their daughter Christine Underwood attend Roslindale High School. Vol. III, pp. 19-25; Vol. V, pp. 33-35.

5. Christine Underwood was accepted for admittance to Roslindale High School in November 1969, only after the initiation of the Complaint in this case.

6. Although purportedly directed by the Boston School Department to admit Open Enrollment students to Roslindale High School on a first come, first served basis, Christine Underwood was excluded from admittance to Grade 10 of Roslindale High School at the commencement of the school year in September 1969, and other students were admitted to Grade 10 who had applied for admission after Christine Underwood had done so. Vol. III, pp. 28-29, 52-53; Vol. V, pp. 5-9, 29-32, 42, 43, 56-57, 61-62, 69; Vol. IX, pp. 18-19, 23, 27. Exhibit 17.

7. Available seat count figures at Roslindale High School were misstated to show no vacancies available when in fact seating for Open Enrollment students was available. Vol. III, pp. 46-53, p. 119, 150; Vol. IV, pp. 23-24, Exhibit 8, 9.

8. Boundary lines between and within school districts are not formally established by the School Committee or School Department but are, in general, arbitrarily established by principals of neighboring schools. These boundary lines determine white and non-white composition of schools. Vol. III, pp. 39-44, pp. 151-155, pp. 162-163, pp. 197-201, pp. 213-214; Vol. IV, pp. 99-102, pp. 105-108; Vol. VII, pp. 9-11; Vol. IX, pp. 89-91. Exhibit 23-24.

9. In the Fall of 1969, Roslindale High School had a total non-white population of 4%. Although it takes over three hundred (300) Open Enrollment students (out of district), only 15% of these are black. Vol. IV, p. 58.



V. *The present enrollment practices of the Respondents and the tangible and intangible barriers inherent in the Open Enrollment System effect discrimination on the basis of race and color with respect to admissions of students in the Boston Public School System.*

A. *OPEN ENROLLMENT AS A PURPORTED METHOD TO SATISFY THE OBJECTIVES OF THE RACIAL IMBALANCE ACT.*

1. The strong geographic bias of the Open Enrollment System, whereby applicants living nearest each school are given the strongest priority, discriminates against students living further away who tend to be of a different race.

2. The strong chronological bias of the Open Enrollment System, whereby the earliest applicants have the best chance of admission regardless of all other factors, discriminates against students who are less well informed, less aggressive, or less helped by their local school.

3. The extreme decentralization of the Open Enrollment System, and the lack of supervision and review, encourages subjective, personalized, non-uniform, arbitrary and discriminatory decisions on applications for admission with the effect of intensifying Racial Imbalance in the schools.

4. The present administration of the Open Enrollment System enables white students to crowd certain schools, prevents and seriously limits black admissions and fails as a measure to foster integrated schools and education.

5. The negative attitude of the Respondents relative to dissemination of information concerning reimbursement of transportation expenses under Chapter 643, ACTS 1969 discriminates against students who live further away or are less well informed and less aggressive.

6. The failure of the Respondents to set school boundary lines affirmatively, perpetuates high density black schools and permits the arbitrary establishment of school boundaries which affects the racial composition of schools.

## **B. *PROPOSED BUILDING PROGRAM IS A METHOD TO RELIEVE PRESSURES ON OPEN ENROLLMENT SYSTEM AND RACIAL IMBALANCE***

1. The present building program of the Respondents does not relieve the pressure on the Open Enrollment System, nor does it relieve Racial Imbalance. Vol. IX, pp. 38, 39.

2. The addition to Dorchester High School has had no material effect in alleviating Racial Imbalance. Vol. VII, p. 91; Vol. IX, pp. 38, 39.

3. Similarly, the erection of the Cannon Elementary School has had little or no effect upon Racial Imbalance. Vol. IX, p. 40.

4. The Trotter School after two years of operation remains imbalanced and adds one more imbalanced school to the system. Vol. IX, p. 49.

5. The number of imbalanced schools in the Boston Public School System has steadily increased. Vol. IX, p. 52.

6. The object of the Racial Imbalance Act, to eliminate Racial Imbalance has not been achieved. Vol. IX, p. 53.

## **VI. CONCLUSIONS OF LAW**

1. The Massachusetts Commission Against Discrimination has jurisdiction of this matter within the meaning of General Laws, Chapter 151 C, Section 3.

2. The Respondents hereto as defined in Article I, paragraphs A and B of the Findings of Fact are proper parties within the general meaning of General Laws, Chapter 151 C, Section I.

3. The practices and actions of the Respondents set forth in the Commission's Findings of Fact are unfair educational practices as defined in General Laws, Chapter 151 C, Section 2.

4. The present enrollment practices of the Respondents

and their administration of the Open Enrollment System as set forth in the Commissions's Findings of Fact violate the Equal Protection and Due Process Clauses of the 14th Amendment of the Constitution of the United States of America.

5. The present enrollment practices of the Respondents and their administration of the Open Enrollment System as set forth in the Commission's Findings of Fact violate Article I, Section 2 of the Constitution of the Commonwealth of Massachusetts.

6. The present enrollment practices of the Respondents and their administration of the Open Enrollment System as set forth in the Commission's Findings of Fact violate Article VII and XII, Executive Order No. 74, Governor's Code of Fair Practices.

7. The present enrollment practices of the Respondents and their administration of the Open Enrollment System as set forth in the Commission's Findings of Fact violate Massachusetts General Laws c. 71, § 37 D as amended by Acts of 1969, Ch. 643, the Racial Imbalance Act.

8. The inaction or "negative" policies of the Respondents as set forth in the Commission's Findings of Fact constitute unlawful educational practices and discriminate on the basis of race and color with respect to admission of students in the Boston Public School System.

## **VII. ORDERS OF THE COMMISSION**

The orders set forth hereafter will effectuate the general purposes of the General Laws, Chapter 151C. On the basis of the foregoing Findings of Fact, and pursuant to General Laws Chapter 151C, Section 3, it is ordered, that:

### **1. *Order to Cease and Desist Unlawful Practices***

The Respondents shall forthwith cease and desist from any and all patterns and practices in the administration and implementation of the Open Enrollment System which tend to discriminate in the admission and/or treatment of non-white and Spanish surnamed students within the Boston Public School System.



## 2. *Affirmative Dissemination of Open Enrollment Information*

The Respondents shall forthwith undertake an Affirmative Action plan consistent with this order with respect to the administration and implementation of the Open Enrollment Plan, which shall include the dissemination, in English and in Spanish, of information to parents, guardians and students as to the availability of seating in each grade of each school, the availability of funds for the payment or reimbursement of transportation expenses for Open Enrollment students, the time, place and method of Open Enrollment application.

## 3. *Centralization of Administration*

The Boston School Committee or the Superintendent of Schools shall designate an individual (hereinafter referred to as "the Administrator") who shall be responsible for the proper implementation of Open Enrollment and the handling of directly related matters. He shall approve or disapprove all admissions of out-of-district students and shall keep records of all applications and admissions. He shall report directly to the Superintendent of Schools.

The Administrator shall submit to the Commission detailed reports on the implementation of the terms of this order. The first such report shall be filed with the Commission six weeks from the date of service of this order, and it shall include the following: the name and curriculum vitae of the Administrator; a schedule setting forth the actions required to implement the provisions of this order together with the proposed date of accomplishment of each action; district boundary lines of all schools in the Boston School system, in accordance with Section 4; the school capacity standards and derived figures referred to in Section 5; and a description of the manner in which enrollment figures for the following year will be projected for each school. The second report shall be due one month later than the first report and shall contain the actual enrollment projections (together with anticipated racial breakdowns) for each school and copies of the application form, the releases, announce-

ments and publications and the pamphlet referred to in Sections 6, 9 and 11 respectively. Subsequent reports shall be submitted every two months, except every month for the first three months of each school year, and shall, as the necessary data become available, set forth the following: the number of out-of-district applicants for admission to each grade of each school, with totals for each school, for each grade system-wide, and for all elementary, middle, junior high and high schools (with racial breakdown); the number of applicants whose first choice is granted and whose first choice is denied (and similarly for second and third choices) with similar categories and totals (with racial breakdown); the racial composition of each sending and receiving school before and after admission of such students; and such other information as either the Commission or the Administrator may from time to time deem it appropriate to include. A copy of each report shall also be filed by the Administrator with counsel for each complainant.

The Administrator shall be provided with such clerical and staff assistance as may be necessary for him to perform his duties in an effective and timely manner.

#### *4. Boundary Lines of Districts*

The boundary lines of the district served by each geographically based school shall promptly be fixed so as to maximize racial integration of students in accordance with Massachusetts General Laws Chapter 71 Section 37d, the Racial Imbalance Act. No such line shall thereafter be changed except upon the expiration of 60 days from the submission of such proposed change to the Commission, unless the Commission otherwise orders. The Commission may approve, disapprove or modify any such proposed change, and may direct any such change to be made.

#### *5. School Capacity Figures*

The Administrator shall establish and apply uniform standards in determining the student capacity of each grade and school. The capacity initially fixed for any grade or school shall in no case be less than the greatest actual number of students simultaneously enrolled in such grade or

school during the 1970-1971 academic year. No such standard or capacity shall thereafter be changed except upon the expiration of 60 days from the submission of such proposed change to the Commission, unless the Commission otherwise orders. The Commission may approve, disapprove or modify any such proposed change, and may direct any such change to be made.

Each week from September through October, and each two weeks thereafter, available seat counts shall be made by a comparison of such capacity figures with actual attendance figures in each grade and school. The Administration shall report all such counts immediately to the Commission and shall also make such counts available to any interested person. The Administrator shall fix a date by which each school principal shall submit to him the number of vacant seats reasonably to be anticipated in accordance with such standards for the 1972-1973 academic year and each following academic year for each grade in his school.

## 6. *Application Procedures*

### A. *Parameters*

Any student is eligible for admission to any geographically based school in the system other than the one to which such student would otherwise be assigned by reason of his place of residence if (1) such school offers the grade he will be entering the following school year, and if (2) his enrollment in such school may reasonably be expected either to decrease racial imbalance in such school or in the school to which such student would otherwise be assigned by reason of his place of residence. Exceptions to the foregoing policy may be made only with respect to schools that offer specialized courses or curricula that are not otherwise available to eligible students. Individual exceptions to the foregoing policy may be granted by the Administrator upon the basis of a written showing of hardship by the parents of the student-applicant. Such exceptions as may be granted will be reviewed by the Commission. Transfers which are, in effect, racially neutral as to the composition of both sending and receiving schools will, in any case, be permitted. A



student admitted to a school under the terms of this order, who is promoted to a grade outside the school, shall automatically, on an equal basis with the other members of his class, be admitted to the school that is "fed" by the one from which he is being promoted, unless he is admitted to another school.

#### *B. Application Period*

A reasonable period shall be set aside in the spring for the receipt of applications for admission to schools for the beginning of the following academic year. No request for admission shall be received after the expiration of such period except in the case of students newly entering the Boston school system or where transfer is reasonably necessary for reasons of health, hardship or special educational need. A supplementary application period shall be allowed from September through December for any seat listed on the report of vacant seats for which no prior request has been made.

#### *C. Application Form*

A standard application form shall be printed and mailed within forty-five (45) days of the date of this order to the parent or guardian of every child in the Boston school system. Said form shall first be submitted to the Commission, and may be used only after the expiration of fifteen (15) days from such submission, unless the Commission otherwise orders. The Commission may approve, disapprove or modify any such form. Copies shall also be made available in quantity at every school and other place of business in the school system and shall be supplied in reasonable numbers to community agencies and organizations requesting same. The address of the office of the Administrator shall be prominently printed on the form. In addition to the aforementioned standard application form, which will be in English, a Spanish translation thereof shall be mailed to all Spanish surnamed parents and guardians.

#### *D. Manner of Submitting Applications*

Applications may be submitted to the office of the Ad-

ministrator or to the central office of any school by personal delivery or messenger during usual office hours, or by mail. The date on which the application is received shall be added to each application.

#### E. *Receipt*

When application is submitted by personal delivery or by messenger, the person delivering the form shall be given a receipt indicating the name of the child for whom admission is requested, the name of the schools to which admission is sought, and the date on which the application is received. Such receipt shall bear the name, title and signature of the person receiving the form. When an application is submitted by mail, such a receipt shall promptly be filled out and mailed to the parent or guardian.

#### F. *Failure to Apply*

Any child on whose behalf an application for admission is not seasonably filed shall be automatically assigned to the school serving the district in which he resides unless he is enrolled in a program for children with special educational needs.

### 7. *Selection Procedures and Related Matters*

#### A. *Selection*

If the number of eligible applicants for admission to a school as their first priority does not exceed the number of seats that the Administrator anticipates will be available in such school at the beginning of the next school year, then each eligible applicant shall be admitted. If after such admissions there are still seats available, eligible applicants listing such school as their second priority who have not been admitted to the school of their first priority shall be admitted, and similarly with applicants listing such school as their third priority.

If the number of eligible applicants for admission to a school exceeds the number of seats that it is anticipated will be available, then admission among those listing such school with the same priority shall be made in such manner

as shall most fully effectuate the purposes of non-discrimination and racial balance, and such eligible applicants of the highest priority class as remain shall be selected by lot.

As soon as practicable after admission determinations are made, and in any event prior to June 15 of each year commencing in 1972, a notice shall be mailed to the parent or guardian of each applicant informing him of the disposition of such application.

Supplemental admissions and transfers may be made after the beginning of the academic year as new seats become available, but applications and procedures shall comply with the terms prescribed herein as nearly as possible.

### *B. Second Application*

If a student's first application for admission is denied as to all schools listed therein, the notice of denial shall be accompanied by an offer of admission to any school in the system serving his grade level which is expected to have space available, and by a list designating such schools and indicating the current and anticipated racial makeup of each. The student shall be given fifteen days in which to make a second application for admission to one or more of such schools. Such application shall be treated as nearly as possible in the manner of first applications as prescribed above.

### *8. Transportation*

Where state funds are available to cover all or any part of the expense of transporting a child under the terms of the open enrollment plan, they shall be fully utilized for that purpose.

### *9. Information*

All reasonable means shall be utilized to inform the public of the existence of the open enrollment plan and the way in which it will work. Such means shall include, but not be limited to, the following: news releases and announcements to all major newspapers and radio and television stations in the Boston area; distribution to each student



and each school, parent or guardian, as well as to community agencies and organizations, of publications fully explaining the plan, all procedures thereunder, and all possibilities of reimbursement for expenses incurred by parents or students thereunder. Such information shall, so far as practicable, include the current or anticipated available seat count and racial composition of each geographically based school. Guidance councillors, guidance teachers, home-room teachers, principals and all others responsible for advising students or likely to receive inquiries of students about admissions and procedures under open enrollment shall be fully informed and instructed concerning such matters. Copies of all such releases, announcements, instructions, and publications shall be submitted to the Commission, which may order dissemination of additional or modified materials.

#### 10. *Discrimination and Racial Imbalance*

All racially discriminatory acts and practices found to exist by the Commission in this case shall cease forthwith. The respondents shall take all necessary steps to this end.

Racial imbalance, as defined in General Laws c. 71 §37D, shall be eliminated in the public schools of the City of Boston no later than the beginning of the academic year starting in September 1972. The respondents shall take all necessary steps to this end.

While responsibility for implementation of this order lies with the respondents, the Commission requests the State Board of Education to assist Boston officials in its implementation and, in particular, to take all possible steps toward maximizing the contribution of suburban school systems in the alleviation of racial imbalance in Boston's schools.

#### 11. *Explanatory Pamphlet*

The Respondents shall prepare forthwith consistent with the terms of this order a pamphlet to be printed in both English and Spanish, setting forth in clear and simple terms the definition, operation and implementation of the Open Enrollment policy of the Boston School Committee.

Said pamphlet shall contain all pertinent information concerning Open Enrollment including -

- 1) definition
- 2) criteria
- 3) priority for admission
- 4) application procedure, time, place and manner of filing
- 5) information concerning the availability of funds for the payment or reimbursement of transportation for students.

Said pamphlet shall be submitted to the Commission for prior approval. The Commission may approve, disapprove or modify the language of said pamphlet as it deems necessary.

#### 12. *Personal Interviews Barred as Prerequisite*

The Respondents shall forthwith cease and desist from requiring or calling for personal interviews of students, their parents and/or guardians as a condition or prerequisite for transfer of the Open Enrollment Plan.

#### 13. *Review Procedures*

The records of the Administrator shall be open to inspection by the public during normal business hours. All proposals submitted to the State Board of Education with respect to relief of racial imbalance, and all plans and reports submitted under General Laws, c. 71, § 37D, or c. 15, § 1 I, with respect to the Boston School System, shall be simultaneously submitted to the Commission. Upon petition by any interested party or on its own initiative, the Commission may order the rescission, modification or replacement of any procedure or action established or undertaken by the respondents which directly or indirectly affects or appears likely to affect adversely the administration of open enrollment. The Commission reserves jurisdiction to amend this order, to review the actions of the respondents hereunder, to grant other and further relief and otherwise to act on complaint or on its own initiative.

*REVIEW OF THE COMMISSION'S ORDER:*

Any party aggrieved by a final order of the Commission may obtain judicial review thereof pursuant to Section 4 of Chapter 151C of the General Laws. Such proceeding shall be brought in the Superior Court within the County wherein any respondent is located.

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DAVID BURREN, Commissioner

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GORDON A. MARTIN, JR.,  
Commissioner

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BEN G. SHAPIRO, Commissioner

DATED: June 22, 1971



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

FLOYD BERRY  
362 Rindge Avenue  
Cambridge, Massachusetts

FINDINGS OF FACT  
CONCLUSIONS OF  
LAW AND ORDER

and

MRS. FRANCES BERRY  
362 Rindge Avenue  
Cambridge, Massachusetts

PrH XI-42-C

COMPLAINANTS

AGAINST

MORRIS GOULDING d.b.a.  
City & Suburban Realty Company  
147 Mt. Auburn Street  
Watertown, Massachusetts

RESPONDENT

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, before David Burres, Acting Chairman and Gordon A. Martin, Jr., and Ben G. Shapiro, Hearing Commissioners, finds that the Respondent City & Suburban Realty Company, 147 Mt. Auburn Street, Watertown, Massachusetts has engaged in unlawful practices as defined in Chapter 151B, Section 4, Paragraph 7 of the General Laws of Massachusetts and states its findings as follows:

FINDINGS OF FACT

1. The Complainants, Floyd Berry and Mrs. Frances Small were engaged to be married at the time the complaint was filed. Mr. Berry was then and still is employed as a Laboratory Technician for the Polaroid Corporation while

Mrs. Small was then employed as a secretary in the Research Division of the Polaroid Corporation. The Complainants were married in December, 1969 and at the time of the public hearing held in the above-entitled matter resided at 362 Rindge Avenue, Cambridge, Massachusetts. Both Complainants are Black.

2. The Respondent City & Suburban Realty Company maintains its place of business at 147 Mt. Auburn Street, Watertown, Massachusetts. Mr. Morris Goulding and Mr. Thomas J. Colbert are partners in the Respondent Company. Mr. Goulding engages in the real estate business and Mr. Colbert in the insurance business and both operate out of the premises at 147 Mt. Auburn Street, Watertown, Massachusetts.

3. On Friday, May 16, 1969, at approximately twelve P.M. the Complainants drove to Watertown to look for housing accommodations. They first stopped at the Office of Watertown Realty Company and were told by a Mr. Marino that his Office handled primarily industrial and commercial property and thus would have nothing to show them, however, he suggested that the Complainants might try the Respondent Real Estate Company.

4. Shortly thereafter the Complainants arrived at the Respondent Real Estate Company and spoke to a Mr. Morris Goulding. The Complainants told Mr. Goulding that they were looking for a five-room apartment to rent and ideally they wanted such an apartment in a duplex or two family house setting. Complainants also mentioned that if they could not find an apartment to rent then they would be interested in buying a house.

Mr. Goulding said that he had no apartments or houses to show to the Complainants at that time, however inasmuch as he was a property manager for the Federal Housing Administration it was possible he might have such a listing sometime in the future. Despite the fact that Mr. Goulding's business had been very bad for some time, he made no attempt to elicit from the Complainants their names or addresses, the price that they were interested in paying for

either an apartment or a house, nor any other of the pertinent information that a real estate broker usually attempts to obtain when dealing with a potential customer.

In fact, Mr. Goulding did have at that time in his possession three (3) listings for five (5) room apartments but he did not make this information available to the Complainants.

## **CONCLUSIONS OF LAW**

1. The course of conduct, statements and dealings of the Respondent City & Suburban Realty Company, 147 Mt. Auburn Street, Watertown, Massachusetts through Mr. Morris Goulding, a partner in the said company, with respect to the complainants Mr. Floyd Berry and Mrs. Frances Small, was such as to constitute an unlawful practice within the meaning of sub-sections A and B of Paragraph 7, Section 4 of Chapter 151B of the General Laws of Massachusetts.

## **ORDERS**

On basis of the foregoing and pursuant to the General Laws of Massachusetts, Chapter 151B, Section 5, it is hereby **ORDERED** by the Massachusetts Commission Against Discrimination, that the Respondent, its agents and servants:

1. Henceforth and in the future cease, desist and refrain from any inquiry, distinction, discrimination or restriction on account of race, color, religion, national origin or ancestry in the rental or sale or offering for rent or sale of any housing accommodations owned, controlled or listed for rent or sale by the Respondent and from denying or causing to be denied on the basis of race, color, religion, or national origin or ancestry the opportunity to rent or purchase or negotiate for the rental or purchase of said housing accommodations.

2. Pay to the Complainants Floyd Berry and Mrs. .

Frances Small (Mrs. Frances Berry) the sum of Two Hundred Dollars (\$200.00). Damages are computed as follows:

Inconvenience and mental Suffering	\$200.00
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3. Report to this Commission within thirty (30) days from date of service of this Order on what steps the Respondent has taken or is taking to comply with the above Order.

Any person claiming to be aggrieved by an award of damages by the Commission may seek review thereof pursuant to Section 5 of Chapter 151B of the General Laws. Such proceeding must be instituted within ten (10) days of notice of such award.

Any person aggrieved by an Order by the Commission may obtain judicial review thereof pursuant to Section 5 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

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DAVID BURRES  
Acting Chairman

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GORDON A. MARTIN  
Hearing Commissioner

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BEN G. SHAPIRO  
Hearing Commissioner

DATE: June 25, 1971



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation of

CLIFFORD SMITH

227 Geneva Avenue

Roxbury, County of Suffolk,

COMPLAINANTS

FINDINGS OF FACTS

CONCLUSIONS OF LAW

AND ORDERS

AGAINST

INDEPENDENT TAX OPERATORS ASSOCIATION

223 Albany Street

P-XIX-7-C

Boston, County of Suffolk

And

DANIEL BARNES, INC.

76 Shirley Street

Roxbury, County of Suffolk,

And

THOMAS CASSERLY

71 Dakota Street

Dorchester, County of Suffolk,

RESPONDENTS

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, by Acting Hearing Chairman David Burres, and Hearing Commissioners, Ben G. Shapiro and Gordon A. Martin, Jr., finds that the Respondents, Daniel Barnes, Inc., 76 Shirley Street, Roxbury, Massachusetts, and Thomas Casserly, 71 Dakota Street, Dorchester, Massachusetts, have engaged in an unlawful practice as defined in Chapters 272, Section 98 of the General Laws of Massachusetts and states its findings as follows:

**FINDINGS OF FACT**

1. The Complainant, Clifford Smith resides at 227



Geneva Avenue, Roxbury, Massachusetts.

2. Respondent, Daniel Barnes, Inc., was on February 15, 1969, a duly organized corporation which maintained its garaging facilities at 73 Shirley Street, Roxbury, Massachusetts. Respondent Independent Taxi Operators Association was on February 15, 1969, a voluntary association of taxi owners in the Greater Boston area which maintained its principal place of business at 223 Albany Street, Boston, Massachusetts. Respondent Daniel Barnes, Inc., was on February 15, 1969 a member of Respondent Independent Taxi Operators Association.

3. On Saturday evening, February 15, 1969, the Complainant accompanied by his wife and four (4) year old child went shopping at the Fields Corner Shopping Center in Dorchester, Massachusetts. At approximately 8 p.m. after completing shopping, the Complainant emerged from the Fields Corner Shopping Center and went to the taxi stand on Dorchester Avenue. When the Complainant arrived at the taxi stand, there were no other people waiting there. However, as time passed, others began to gather.

4. Approximately twenty (20) minutes later, a taxi cab owned by Respondent Daniel Barnes, Inc. and driven by Respondent Thomas Casserly approached the taxi stand where the Complainant was waiting. The Complainant hailed the cab by motioning with his hand, and Respondent Casserly looked in the Complainant's direction. However, he passed him by and stopped a short distance away, in front of two (2) girls who were Caucasian. The girls declined to take the cab, however, because the Complainant and his family had been waiting at the cab stand prior to their arrival.

5. The Complainant opened the door to the Cab and was about to step in when Respondent Casserly told him that he was not going to take him in his cab. After some further conversation between them, Respondent Casserly told the Complainant that his Company's policy was not to pick up Black people after dark. Complainant then got out of the cab and closed the door, and the cab proceeded to the corner

of the street where the Respondent Casserly picked up another passenger and drove away. This passenger was Caucasian.

6. The sole reason the Respondent Casserly refused to make his cab available to the Complainant was because the Complainant was non-white.

## CONCLUSIONS OF LAW

1. The taxi cab in question in this proceeding, driven by Respondent Casserly and owned by Respondent Daniel Barnes, Inc., comes within the definition a "place of public accommodation" or "common carrier" as defined in Chapter 272, Section 92A of the General Laws of Massachusetts.

2. The Respondent Independent Taxi Operators Association comes within the definition of a "place of public accommodation" or "common carrier" as defined in Chapter 272, Section 92A of the General Laws of Massachusetts.

3. The course of conduct of the Respondent Daniel Barnes, Inc., through its agent Respondent Thomas Casserly, with respect to the Complainant Clifford Smith, was such as to constitute unlawful discrimination within the meaning of Chapter 272, Section 98, of the General Laws of Massachusetts.

4. The conduct of Respondent Independent Taxi Owners Association with respect to the Complainant Clifford Smith was not such as to constitute an unlawful discrimination within the meaning of Section 98 of Chapter 272 of the General Laws of Massachusetts. However, we concur with Commissioner Martin's separate findings of fact, as set forth hereafter, though not with his third conclusion of law, and we therefore, pursuant to our responsibilities under the General Laws, retain jurisdiction over this Respondent.

## ORDERS

On the basis of the foregoing and pursuant to Section 5, Chapter 151B of the General Laws of Massachusetts, it is hereby ORDERED by the Massachusetts Commission Against Discrimination that:

1. Respondents Daniel Barnes, Inc., and Thomas Casserly, their agents and servants, henceforth and in the future cease and desist and refrain from making any inquiry, distinction, discrimination or restriction on account of race, color, religion or national origin or ancestry relative to the admission of any person to, or his treatment in any taxi cabs owned, controlled or operated by them and from denying, on the basis of race, color, religion, or national origin or ancestry, the opportunity to hire or negotiate for the hiring of said taxi cabs.

2. Respondent Daniel Barnes, Inc., issue a statement to its agents, servants and employees that all taxi cabs owned or controlled by said Respondent are to be made available for hire to all persons regardless of race, color, religion or national origin.

3. Respondents Daniel Barnes, Inc., and Thomas Casserly pay to the Complainant, Clifford Smith, the sum of \$500.00. The damages are computed as follows:

Actual damages	\$10.00
Inconvenience and Mental suffering	490.00
	<hr/>
	\$500.00

4. The Respondents Daniel Barnes, Inc., and Thomas Casserly shall report to the Commission within thirty (30) days from the date of service of this ORDER as to what steps Respondents have taken or is then taking to comply with the foregoing order.

5. The Respondent Independent Taxi Operators Association shall present to the Massachusetts Commission Against Discrimination not later than sixty days from the



date of this order a plan to acquaint all Independent Taxi Operators Association owners and drivers with their responsibility to serve all members of the general public regardless of their race, color, national origin or religion, together with Independent Taxi Operators Association's proposals to insure that policy is, in fact, being carried out.

Any person claiming to be aggrieved by an ORDER of the Commission may obtain judicial review thereof, pursuant to Section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this ORDER.

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DAVID BURREN  
Hearing Chairman

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BEN G. SHAPIRO  
Hearing Commissioner

Hearing Commissioner Gordon A. Martin, Jr., concurring in part and dissenting in part:

### FINDINGS OF FACT

1. The majority findings are hereby adopted and incorporated as a part of this opinion.
2. The Respondent Independent Taxi Operators Association holds itself out to the general public as the operator of facilities for the transportation of persons by taxi cab.
3. The said Respondent maintains a central dispatcher station, telephone answering equipment and garaging facilities for the storage and maintenance of taxi cabs and facilities for the storage and sale of fuel oil for vehicles belonging to members of the Association.

4. Cab drivers reporting to work at the Respondent's Shirley Street Garage are assigned to drive available cabs by the central dispatcher without the drivers having prior knowledge as to which company they will be assigned to on any particular day.

5. The Respondent maintains private stations or stands throughout the city and a centralized telephone number which gives coverage to all parts of the city.

6. The Respondent advertises in the Yellow Pages Advertising Directory and holds itself out to the general public as the operator of the Independent Taxi Operators Association fleet of taxi cabs.

7. Each Independent Taxi Operators Association taxi cab possesses an assigned Association number and a common decal.

8. The public image that the Association has created and maintains, coupled with the element of the control which it has over Association taxi cabs, induces the general public to rely upon Independent Taxi Operators Association for service.

## **CONCLUSIONS OF LAW**

1. Paragraphs 1 through 3 of the majority's conclusions of law are hereby adopted and incorporated as a part of this opinion.

2. The conduct of Respondent Independent Taxi Operators Association with respect to the Complainant Clifford Smith constituted unlawful discrimination within the meaning of Section 98, Chapter 272 of the General Laws of Massachusetts.

## **ORDER**

1. I concur with and incorporate herein paragraphs 1-5 of the order of the majority but would add thereto the following:

2. The Respondent Independent Taxi Operators Asso-



ciation shall additionally pay to the complainants \$300 for mental suffering, frustration and inconvenience.

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GORDON A. MARTIN, JR.  
Hearing Commissioner

June 28, 1971



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

JOHN WILSON

COMPLAINANT

FINDINGS OF FACT

CONCLUSIONS OF

LAW AND ORDERS

AGAINST

AYER REAL ESTATE TRUST

Raanan Katz, Trustee

and EDWARD REINGOLD and ARNOLD REINGOLD

VICTORY REALTY TRUST

PrH XI-125-C

RESPONDENTS

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, before Hearing Chairman, Glendora McIlwain Putnam and Hearing Commissioners David Burres and Ben G. Shapiro, finds that the Respondents Ayer Real Estate Trust, Raanan Katz, Trustee and Edward Reingold and Arnold Reingold, Victory Realty Trust have engaged in unlawful practices as defined in Chapter 151B, Section 4, Paragraph 6 of the General Laws of Massachusetts and states its findings as follows:

**FINDINGS OF FACT**

1. The Complainant, John Wilson, is married and resided at 454 Essex Street, Lynn, Massachusetts at the time the public hearing was held on the above entitled matter. The Complainant is employed at the General Electric Company in Lynn, Massachusetts and has been since November 3, 1969. Complainant is Black.

2. Respondent, Raanan Katz is the sole owner of the Bay View Apartment complex on Bay View Terrace in Danvers, Massachusetts. Said property is held in the name of Ayer Real Estate Trust and Respondent Katz is the sole

trustee of said trust. Respondent Katz is White.

Respondent, Edward Reingold was the resident manager-superintendent of the above-mentioned Bay View Apartment Complex on Bay View Terrace in Danvers, Massachusetts at the time John Wilson filed his complaint with the Massachusetts Commission Against Discrimination. Respondent Edward Reingold is White.

Respondent, Arnold Reingold, brother of Respondent Edward Reingold, has been the general manager for four (4) years of the Victory Realty Trust office at 1450 Blue Hill Ave., Mattapan, Suffolk County. As part of his managerial duties, Respondent Arnold Reingold oversees the operation of the Bay View Apartment Complex referred to above. Respondent Arnold Reingold is White.

3. On or about November 6, 1969 the Complainant observed an advertisement in the Boston Globe newspaper. The advertisement made reference to an apartment for rent at the Bay View Apartments on Bay View Terrace in Danvers, Massachusetts. In response to this advertisement the Complainant called the number contained therein and made an appointment to see the apartment that day.

4. On that same day (November 6, 1969) the Complainant arrived at the Bay View Apartment Complex and was admitted to the apartment of Respondent Edward Reingold, the resident superintendent and manager. The Respondent Edward Reingold showed the Complainant through his apartment inasmuch as it was the same as the apartment that was advertised for rent in the newspaper. The Complainant filled out a rental application and was told that an apartment would be available on December 1, 1969. The Complainant was further told by the Respondent Edward Reingold that it would take three (3) days to process his application and that he should check back with him on Saturday, November 8, 1969 as to whether his application was accepted.

5. On or about Saturday, November 8, 1969 the Complainant returned to the Respondent Edward Reingold's apartment and was told by said Respondent that his ap-



plication had been rejected because he had been employed by the General Electric Company for only one (1) week. Respondent Edward Reingold then handed the Complainant a business card which contained the following language "Victory Realty, Real Estate Management - Sales, Edward Reingold, Resident Manager, 1450 Blue Hill Avenue, Mattapan, Massachusetts 02126". Said Respondent then wrote a telephone number (296-2800) on the card in pen and told the Complainant that he should call Victory Realty if he had any questions with regard to his application.

6. Approximately one (1) week later the Complainant spoke to a Mr. David E. Collins and told him that he had been unable to secure an apartment in Danvers at the Bay View Terrace Apartments because he had been employed at General Electric for only one (1) week. Mr. Collins, who is White, said that he would check into the situation. Mr. Collins, at the time the complaint was filed, resided at 111 Rockaway Avenue, Marblehead, Massachusetts and was employed at the General Electric Company in Lynn, Massachusetts as an Engineer.

Mr. Collins subsequently called the Bay View Apartments and asked whether there was a vacancy for December 1st. Mr. Collins was told that there was such a vacancy and made an appointment to see an apartment on November 13, 1969. On that date Respondent Edward Reingold showed Mr. Collins through his apartment saying that it was similar to the apartment that was to be vacant and available on December 1st. Using a fictitious name, Mr. Collins filled out a rental application using similar information as the Complainant had used when he had filled out his application including the fact that he had been employed at General Electric for less than one (1) week and that his previous employment position was as a teacher in New Jersey. After the application was completed Respondent Edward Reingold told Mr. Collins to check back with him on Saturday, November 15, 1969 to see whether his application had been accepted. Mr. Collins tried to reach Respond-



ent Edward Reingold by telephone on that Saturday but was unsuccessful, however, Mr. Collins did contact Respondent Edward Reingold on Sunday, November 16, 1969 and was told by said Respondent Edward Reingold that he could have the apartment on December 1, 1969 and that he should bring over Three Hundred and Eighty Dollars (\$380.00) (One Hundred and Eighty Dollars for rent and Two Hundred Dollars security deposit) as soon as possible.

7. Respondent Raanan Katz authorized the use of the rental application forms which prospective tenants for the Bay View Apartment Complex at Bay View Terrace in Danvers, Massachusetts fill out. Respondent Katz and Respondent Arnold Reingold discuss and set rental policies for the Bay View Apartment Complex and Respondent Arnold Reingold implements those policies. Respondent Katz gives instructions to Respondent Edward Reingold concerning the day to day physical operation of the Bay View Apartment Complex and Respondent Katz when he is in the Victory Realty Office at 1450 Blue Hill Avenue, Mattapan, Suffolk County, reviews rental applications for the Bay View Apartment Complex and rejects or accepts prospective tenants, as the case may be. Respondent Katz sets the dollar rental amounts for the apartments within the Bay View Apartment Complex and Respondent Arnold Reingold advises Respondent Katz in this connection.

Respondent Arnold Reingold was the individual who actually disapproved Complainant Wilson's rental application. Respondent Arnold Reingold had been employed for approximately four (4) years at Victory Realty Offices at 1450 Blue Hill Avenue, Mattapan, Suffolk County, at the time the complaint in the instant case was filed.

Respondents Arnold Reingold and Edward Reingold are brothers and because of this relationship they met and talked informally from time to time and in some of their conversations they discussed the operation of the Bay View Apartments. Respondent Arnold Reingold visited the Bay View Apartment Complex in his official capacity as general

manager of that property at least once a week.

8. Although David Collins represented that he had worked for General Electric Company for the same length of time as the complainant, he was offered the premises. The sole reason the complainant was not offered the premises was because of his color, not because of the length of service at General Electric Company.

## **CONCLUSIONS OF LAW**

1. The apartment complex in question in this preceding located on Bay View Terrace, Danvers, Massachusetts comes within the definition of a "multiple dwelling" within the meaning of Chapter 151B, Section 1, Paragraph 11 of the General Laws of Massachusetts.

2. The course of conduct, statements and dealings of Respondent Raanan Katz, Trustee, by and through his agents, Respondent Arnold Reingold and Respondent Edward Reingold, with respect to the Complainant John Wilson, was such as to constitute an unlawful practice within the meaning of Chapter 151B, Section 4, Paragraph 6, Sub-sections A and B of the General Laws.

## **ORDERS**

On the basis of the foregoing and pursuant to the General Laws of Massachusetts, Chapter 151B, Section 5, it is **HEREBY ORDERED** by the Massachusetts Commission Against Discrimination, that the Respondents, their agents and servants:

1. Henceforth and in the future cease, desist and refrain from any inquiry, distinction, discrimination or restriction on account of race, color, religion, national origin or ancestry through the rental or offering for rent of any housing accommodations owned or controlled by the Respondents and from denying or causing to be denied on the basis of race, color, religion or national origin or ancestry the opportunity to rent or lease or negotiate for the rental

or lease of said housing accommodations.

2. Include in each advertisement which said Respondents either directly or indirectly as real estate owners, operators, managers or brokers, cause to be published in any newspaper offering properties for sale or rental, a statement in form satisfactory to the Commission, giving notice that each of the properties offered by the Respondents is an "equal opportunity listing." Said statement should appear in every said advertisement published during the first six (6) months after the date of the service of this Order or Twenty-six (26) separate Advertisements whichever is longer after which it may be discontinued.

3. Pay to the Complainant John Wilson the sum of One Thousand Dollars (\$1,000.00) for out-of-pocket losses and damages for mental anguish and humiliation.

4. Report to this Commission within thirty days (30) from the date of service of this Order on what steps Respondents have taken or are taking to comply with the above order.

Any person claiming to be aggrieved by an award of damages by the Commission may seek review thereof pursuant to Section 5 of Chapter 151B of the General Laws. Such proceeding must be instituted within ten (10) days of notice of such award.

Any person aggrieved by an Order of the Commission may obtain judicial review thereof pursuant to Section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

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GLENDORA McILWAIN PUTNAM  
Hearing Chairman

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DAVID BURRESS  
Hearing Commissioner

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BEN G. SHAPIRO  
Hearing Commissioner

DATE: June 28, 1971





THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDERS

JOHN GOLDEN  
286 Columbus Avenue  
Pittsfield, Berkshire County

COMPLAINANT

AGAINST

COMPLAINT No.  
71-SPrH-1-C

ANTHONY CAPARELLO  
103 Frances Avenue  
Pittsfield, Berkshire County

RESPONDENT

This cause came on for hearing before Chairman Glendora M. Putnam and Commissioner Gordon A. Martin, Jr., who, upon consideration of all the evidence, set forth their findings, conclusions and orders as follows:

**FINDINGS OF FACT**

1. Complainant, a resident of the City of Pittsfield, Massachusetts, is a member of the Black Race. He is married and is the father of one child.
2. On or about December 16, 1970, the complainant went to the home of the Respondent, Anthony Caparello at 103 Frances Avenue, Pittsfield, Massachusetts, to inquire about the availability for rental of an apartment located at 105 Frances Avenue, Pittsfield, Massachusetts and owned by the respondent.
3. The Complainant was informed by Giovanna Caparello, the wife of the Respondent, that the apartment in question had already been rented.
4. That prior to Respondent's inquiry relative to the rental of the apartment, Giovanna Caparello had rented the

apartment to one Nelly Anson.

The following conclusions are set forth:

1. The parties hereto are proper parties within the meaning of the Massachusetts General Laws, Chapter 151B, Section 5.

2. The Respondent did not discriminate against the Complainant on account of the Complainant's race or color.

3. That at the time the Complainant inquired about the availability of the apartment, it had in fact already been rented and was no longer available.

On the basis of the foregoing, and pursuant to Massachusetts General Laws, Chapter 151B, Section 4 and 5, it is hereby *ordered* by the Massachusetts Commission Against Discrimination,

1. That the complaint against the Respondent, Anthony Caparello be and is hereby dismissed.

Dated at Boston this 30th day of June 1971.

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GLENDORA M. PUTNAM  
Commissioner

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GORDON A. MARTIN, JR.  
Commissioner

THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

VIRGIE LEE PHILLIPS  
378 Kimball Street  
Fitchburg

COMPLAINANTS

FINDINGS OF FACT  
CONCLUSIONS OF  
LAW, AND ORDER

AGAINST

MARY T. McHUGH  
32 Birch Street  
Fitchburg

COMPLAINT NO.

71-PrH-44-C

RESPONDENT

ACTING CHAIRMAN BURRESS: The Commission has reached its decision on this matter and the Commission has ruled unanimously that a discriminatory act was, in fact, committed as against the Complainant. The Commission, therefore, orders that the Respondent make the apartment in question available for occupancy to the Complainant no later than July 15, 1971, and it should be available and in habitable condition by Ten A.M. on that date.

The Commission further orders the Respondent to pay the sum of \$300 (three hundred dollars) in damages. The Commission further orders, as a part of the damages, the rent for the apartment in the agreed sum of \$70 (seventy dollars) shall not begin until August 1, 1971. With respect to the payment of the money damages in the amount of \$300 (three hundred dollars) the Commission will accord the Respondent the option of determining that the sum should be paid in money immediately to the Complainant or alternatively the Respondent's option is that the \$300 (three hundred dollars) money damages may be set off against the rent for the month of and beginning August 1.

MR. O'CONNELL: I don't know the procedure ---

ACTING CHAIRMAN BURRE: We'll save your rights.

The Commission would caution the Respondent that the rent may not be raised arbitrarily as against this Complainant as a means of causing the tenant, this particular Complainant to vacate the premises. We would suggest or urge the Respondent as a practical matter that the Commission would view any discriminatory rental raise as against this Complainant unaccompanied by a corresponding increase against the other tenants to be at very least suspect. The Commission, in making this order, has based its findings that a discriminatory act has been committed on the following factual findings, among others.

### FINDINGS OF FACT

ACTING CHAIRMAN BURRE: To begin with, the Complainant is a Black woman. The Commission further finds that as of the 18th of May 1971 the Complainant did, in fact, apply for housing of the Respondent Mary T. McHugh. The Commission further finds, as a fact, that on that date, May 18, 1971, no arrangements had been made, no firm arrangements, and no final commitments had been made with respect to the rental of that apartment. The Commission further finds that the Respondent Mary T. McHugh advised the Complainant that the apartment was rented only because of the Complainant's color, and only for the purpose of denying or foreclosing that particular unit to the Complainant because of the Complainant's color.

The Commission further finds, as a fact, that when Mrs. Brodsky, a white woman, went, subsequent to the 18th of May, 1971, to determine the availability of that apartment, and at such subsequent time Mrs. Brodsky was informed by the Respondent Mary T. McHugh that the apartment in question was available and that she consented to the rental and subsequent occupancy by Mrs. Brodsky. The Commission further finds that Mrs. Brodsky did in fact, with the agreement and assent of the Respondent Mary T.



McHugh, visit the premises in question. The Commission further finds that Mrs. Brodsky was offered the apartment and that arrangements were made to begin occupancy as the apartment was not committed to anyone else. The Commission further finds that the apartment was offered to Mrs. Brodsky and not to Mrs. Phillips only because Mrs. Brodsky was white and Mrs. Phillips was Black.

The Commission further finds that in fact the apartment in question had been occupied previously by and with the knowledge of the Respondent Mary T. McHugh to a family of six children, five of whom at the time of occupancy resided in the apartment.

The Commission with respect to damages finds that the Complainant has suffered actual damages and has been humiliated of the discriminatory treatment by the Respondent. The Commission further finds with respect to the damages that as a direct consequence of the discriminatory act of the Respondent, the Complainant has been compelled to continue to reside at a place that was unfit for family habitation and has, therefore, been caused to suffer needlessly and substantially. The Commission adopts with respect to the living conditions at the present address of the Complainant Mrs. Phillips, adopts with respect to these finding of facts the particular description of the premises in question, the description by Mrs. Baker, that these premises are unfit for human habitation. The Complainant Mrs. Phillips was required, because of broken windows, to cover the broken windows with blankets, and that there was no adequate place for the children to play outside the apartment. The apartment presently occupied by Mrs. Phillips is substantially inferior to the apartment in question.

We'll ask the stenographer, Mr. McLaughlin, to prepare immediately the Commission's order and recitation of the facts that just have been made.

Mr. O'Connell, do you wish to make any statement?

MR. O'CONNELL: May the record show the Respondent excepts to each and every finding of the Commission. The Respondent, herewith, effects his right to appeal to the



Superior Court for trial.

ACTING CHAIRMAN BURRES: Mr. Lewis.

MR. LEWIS: No, thank you.

ACTING CHAIRMAN BURRES: We ask the counsel remain in the area and be available while the stenographer types up the order.

MR. O'CONNELL: Can the order be mailed?

ACTING CHAIRMAN BURRES: Let the record reflect the Commission is offering to make available for counsel the order and its finding within the hour, today. Mr. O'Connell, this order will be available for you today if you wish to pick it up or make arrangements to have it picked up. We, of course, will mail it to you. That's all. It will be available to you.

MR. O'CONNELL: Yes, sir.

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GORDON A. MARTIN, JR.  
Commissioner

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BEN G. SHAPIRO  
Commissioner

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DAVID BURRES  
Commissioner

Date: July 9, 1971

THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

DAVID A. BARRY

59 Wood Lane

Acton, Middlesex County

COMPLAINANT

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDERS

AGAINST

RAYTHEON COMPANY

Plant No. 1

Waltham, Middlesex County

and

THOMAS L. PHILLIPS, President

RAYTHEON COMPANY

141 Spring Street

Lexington, Middlesex County

RESPONDENTS

COMPLAINT No.  
A XIX-3-A

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, by David Burres, Acting Chairman and Hearing Commissioner Ben G. Shapiro find that the Commission is without jurisdiction over the above-entitled Complaint inasmuch as the Complaint is barred by the Statute of Limitations as provided in Chapter 151B of the General Laws of Massachusetts. Hearing Commissioner Gordon A. Martin, Jr., dissents from the Commission's holding. The majority state their findings as follows:

**FINDINGS OF FACT**

1. Complainant was employed by Respondent Company from July 1, 1946 to July 1, 1969, at which time he retired.

2. On July 1, 1964 Complainant was laid off by

Respondent Company effective August 1, 1964 due to lack of work. At this time Complainant was employed as a Superintendent in Respondent Company's Waltham plant and was earning approximately \$1,035.00 per month.

3. On or about September 15, 1964, Complainant was offered and accepted a position as "senior methods process engineer" at Respondent Company's Andover plant. This transfer was arranged by Respondent Company's "Long Service Committee" which also approved a 10% decrease in pay for the Complainant. This authorized pay cut was never put into effect however and Complainant continued to earn \$1,035.00 per month in his new position at the Andover plant which Complainant held until December 1, 1965.

4. On or about December 1, 1965 Complainant was offered and accepted a transfer to Respondent Company's Lever Building in Waltham. Said transfer was accompanied by a 25% pay cut with subsequent reductions in life insurance and pension benefits retroactive to December 1, 1965 - all of which were approved by the Respondent Company's "Long Service Committee." The above mentioned 25% pay cut included the 10% cut in salary authorized in September of 1964 but not put into effect until this time.

5. In a letter to Respondent Thomas L. Phillips, President, Raytheon Company dated October 29, 1968, Complainant recounted his employment history with Respondent Company and requested an increase in salary prior to his approaching retirement.

In a letter to Complainant dated December 5, 1968 Respondent Phillips authorized a 10% increase in salary for the Complainant effective January 1, 1969.

6. Complainant filed his complaint with the Massachusetts Commission Against Discrimination on February 15, 1969.

## CONCLUSIONS OF LAW

The allegation of unlawful discrimination relates to a lay-off which occurred on or about July 1, 1964 and subsequent reductions in Complainant's salary occurring in 1964 and 1965.

Inasmuch as Complainant filed his complaint on February 15, 1969 the Massachusetts Commission Against Discrimination is without jurisdiction over the alleged discriminatory act as section 5 of Chapter 151B of the General Laws requires that complaints be "... filed within six months after the alleged act of discrimination."

## ORDER

Upon the basis of the foregoing findings of fact and conclusion of law and pursuant to Section 5, Chapter 151B of the General Laws it is hereby ORDERED by the Massachusetts Commission Against Discrimination:

1. The complaint against Respondents Raytheon Company and Thomas L. Phillips, President, Raytheon Company are hereby dismissed.

Any person aggrieved by the Order of the Commission may obtain judicial review thereof pursuant to Section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

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DAVID BURRESS  
Acting Chairman

Date: October 1, 1971

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BEN G. SHAPIRO  
Commissioner

## DISSENTING OPINION

The allegation of unlawful discrimination while relating

to a lay-off which occurred on or about July 1, 1964 and subsequent reductions in Complainant's salary occurring in 1964 and 1965 is continuing in nature. Complainant objected each time his position and/or salary was changed and as late as October 29, 1968 in a letter to Thomas L. Phillips, President, Raytheon Company, expressed his dissatisfaction with his reduced status with the Respondent Company.

Due to the continuing nature of the alleged unlawful act I find that said alleged unlawful discrimination continued up to and including February 15, 1969, the day Complainant filed his complaint with this Commission and therefore the Massachusetts Commission Against Discrimination does have jurisdiction to determine the merits of the instant complaint.

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GORDON A. MARTIN, JR.  
Commissioner

Date: October 1, 1971



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

PATRIKIA EVANS

764 Cambridge Street

Cambridge, Middlesex County

COMPLAINANT FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDERS

AGAINST

ALFRED PRUNSKI

424 Jamaica Way

Jamaica Plain, Suffolk County

COMPLAINT NO.

71-PrH-38-C

RESPONDENT

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination, by David Burres, Acting Chairman and Hearing Commissioner Ben G. Shapiro, with Hearing Commissioner, Gordon A. Martin, Jr., dissenting, finds that the Respondent has not engaged in unlawful discrimination in violation of paragraph 7, section 4 of chapter 151B of the General Laws and states its findings as follows:

FINDINGS OF FACT

1. Complainant is a registered nurse who resided at 764 Cambridge Street, Cambridge, Middlesex County at the time of this Hearing. Complainant is Black.

2. Respondent is a white male who owns the housing accommodations in question at 185 Green Street and 281 Chestnut Street, Jamaica Plain.

3. On or about March 25, 1971, Russell Franklin, a white male and one of the Respondent's tenants residing at 185 Green Street, Jamaica Plain, asked Respondent whether it would be alright for Complainant and her two (2) year old son to move into his apartment. Respondent

told Mr. Franklin that he could have a guest at his discretion but that Complainant could not become a tenant in Mr. Franklin's apartment.

On March 27, 1971, Complainant and her son moved into Mr. Franklin's apartment. Complainant shared the apartment with Mr. Franklin and paid a one-half share of the rent to him. Mr. Franklin was the one however, who actually paid the rent over to Respondent. Complainant was never told by Respondent himself, that she could move into Mr. Franklin's apartment, either as a guest or a tenant.

Complainant was unemployed when she moved into Mr. Franklin's apartment and she remained unemployed through the entire time period relevant to her complaint.

4. On or about the evening of April 4, 1971 Complainant called the Respondent on the telephone — this being the first occasion on which she had spoken to him. Complainant told the Respondent that she would be taking over Mr. Franklin's apartment when he left and that she wanted the apartment redecorated. Respondent declined to discuss this matter at length over the telephone but made arrangements to see her at Mr. Franklin's apartment the next morning.

The next morning, April 5, 1971, Respondent met Complainant at Mr. Franklin's apartment. Respondent advised Complainant that he would not permit her to go on living in Russell Franklin's apartment, either by herself, with Russell Franklin or with another family. Respondent suggested that he had another apartment at 281 Chestnut Street, Jamaica Plain, that he was remodeling and that if the Complainant submitted a satisfactory application she could move in there when it was ready. Finally, Respondent told Complainant she could remain in Franklin's apartment as a guest for a few more days until she found another place to live.

The next morning, April 6, 1971, Respondent gave the Complainant a rental application for the apartment at 281 Chestnut Street, which Complainant was to fill out and return to Respondent.

Respondent required a completed application from each new prospective tenant prior to accepting them in one of his apartments.

5. At some later unspecified date between April 6 and April 23, 1971 Complainant telephoned the Respondent and told him that she had moved out of Franklin's apartment. During the course of the conversation the Complainant revealed that she had not as yet submitted her application for the Chestnut Street apartment but that she would like to see the apartment. Arrangements were made for Respondent to show the apartment to Complainant on April 23, 1971.

On the morning of April 23, 1971 Respondent met Complainant at the premises at 281 Chestnut Street. Complainant wanted Respondent to construct a back porch to the apartment and to take one of the walls apart and put in a bay window. Respondent said that these requests were unreasonable and Complainant said that she would have to think about renting the apartment. Respondent said that he had other applicants for the apartment; nevertheless Complainant did not submit a rental application to the Respondent during this meeting.

Complainant stated that she was still living at Mr. Franklin's apartment, despite having told Respondent earlier that she had moved out. Respondent replied that he would not put up with this situation any longer and that she must move out of Mr. Franklin's apartment.

## CONCLUSIONS OF LAW

1. The housing accommodations located at 185 Green Street and 281 Chestnut Street, Jamaica Plain, Massachusetts come within the definition of "other covered housing accommodations" within the meaning of clause 13 of section 1 of G.L.C. 151B.

2. The course of conduct and dealings of the Respondent with respect to the Complainant were not such as to constitute unlawful practices within the meaning of clause

7, section 4 of chapter 151B.

### **ORDER**

Therefore, pursuant to section 5, chapter 151B of the General Laws, it is hereby

**ORDERED** by the Massachusetts Commission Against Discrimination that the complaint be and hereby is **DISMISSED**.

Any person aggrieved by an order of the Commission may obtain judicial review thereof, pursuant to section 6, chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this order.

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**DAVID BURRET**  
Acting Hearing Chairman

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**BEN G. SHAPIRO**  
Hearing Commissioner

Hearing Commissioner Gordon A. Martin, Jr., dissents.

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**GORDON A. MARTIN, JR.**  
Hearing Commissioner

Dated at Boston:

October 28, 1971



# THE COMMONWEALTH OF MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

On Relation Of  
MARIANNE DILEO

COMPLAINANT

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDERS

AGAINST

BOARD OF LICENSE COMMISSIONERS

RICHARD BARRY, CHAIRMAN

ARTHUR COVELLE

MICHAEL REGIONE,

COMPLAINT No.

as they are members of the Board

71-S-CA-18

And

JACQUELINE PUOPOLO AND PHILLIP PUOPOLO

d.b.a. J.P.'s Lounge

RESPONDENTS

Pursuant to the provisions of S 5 of Chapter 151B of the General Laws, a hearing was held before the Massachusetts Commission Against Discrimination on the above-entitled matter. Upon all evidence, Commissioners Gledora Putnam, Chairman, David Burres, and Ben G. Shapiro find that the Respondent City of Everett Board of License Commissioners through its members, Richard Barry, Chairman, Arthur Covelle and Michael Regione, (hereinafter referred to as the Board) has engaged in unlawful discrimination as defined in Chapter 151B, Section 4 of the General Laws of Massachusetts and the Respondents J.P.'s Lounge and Jacqueline and Phillip Puopolo have not engaged in unlawful discrimination, stating their findings as follows:

## FINDINGS OF FACT

1. The Complainant, Marianne DiLeo, resides at 75 Malden Street, Everett, Massachusetts. She has had several



years of experience as a bartender and as a waitress.

2. The Respondent Board is the duly appointed licensing authority for the City of Everett, having the statutory authority to grant liquor licenses to establishments in the City of Everett. Pursuant to its statutory authority, the Board has issued rules and regulations which require all persons employed by a Licensee to apply for a working permit from the Licensing Commission.

3. The Respondent J.P.'s Lounge is located on Broadway, Everett, in a middle class residential area. The Respondent, Phillip Puopolo, operates J.P.'s Lounge.

4. The Complainant Marianne DiLeo was employed by the Respondent J.P.'s Lounge as a bartender for one month. She performed her duties as a bartender without incident or difficulty and to the satisfaction of her employer.

5. The Complainant attempted to make application to the Board for the required work permit for the position of Bartender. Mr. Richard Barry, the Board's Chairman, initially refused to allow the Complainant to complete the application, stating that "So long as I am Chairman, no woman will be permitted to work as a bartender in the City of Everett."

6. No person convicted of a felony will be granted a work permit. The Complainant has no criminal record.

7. In interpreting its rules and regulations, the Board has adopted a general policy that no woman will be permitted to tend bar in Everett. No rule or regulation specifically prohibits women from tending bar in Everett. The Complainant was denied a work permit solely because she was a female.

8. The Complainant was terminated from her job at J.P.'s Lounge only because she could not obtain a work permit.

9. The Respondent Phillip Puopolo would rehire the Complainant to tend bar at J.P.'s Lounge if she were issued the necessary work permit.

10. The Complainant worked at J.P.'s lounge five nights

per week from 8 p.m. 'til 1 a.m. and earned an average of \$180 per week, including tips.

11. The Complainant was unemployed from the time she was refused the work permit until September 2, 1971, a period of 31 weeks. During that time, she was hospitalized and unable to work for a twelve week period.

12. The Complainant's gross weekly salary from September 2 to present is \$63.56.

13. The Complainant received welfare benefits during her period of unemployment in the amount of \$92 per week. The Complainant continues to receive welfare benefits to supplement her salary as a secretary.

## CONCLUSIONS OF LAW

1. The Respondent City of Everett Board of License Commissioners comes within the definitions of a "person" as defined in Chapter 151B, Section 1, Subsection 1 of the Massachusetts General Laws.

2. The Respondents Jacqueline and Phillip Puopolo and J.P.'s Lounge are "employers" within the meaning of Chapter 151B, Section 1, Subsection 5 of the Massachusetts General Laws.

3. The action of the Respondent Phillip Puopolo in terminating the employment of the Complainant because she lacked the required work permit constituted unlawful discrimination by the employer, within the meaning of Chapter 151B, Section 4, Subsection 1 of the Massachusetts General Laws.

4. The actions of the Respondent City of Everett Board of License Commissioners in initially refusing the Complainant an opportunity to apply for a work permit to tend bar and ultimately refusing to grant her a work permit to tend bar because of her sex constituted unlawful discrimination on account of sex within the meaning of Chapter 151B, Section 4, Subsection 5 of the Massachusetts General Laws.

## ORDER

Upon the basis of the foregoing findings of fact and conclusions of law and pursuant to Section 5 of Chapter 151B of the General Laws of Massachusetts, it is hereby

ORDERED by the Massachusetts Commission Against Discrimination:

1. The Respondent Jacqueline and Phillip Puopolo d/b/a J.P.'s Lounge shall rehire the Complainant upon her receipt of a work permit to tend bar in Everett.

2. The Respondent Board shall forthwith issue a permit to the Complainant Marianne DiLeo to tend bar.

3. The Respondent Board shall cease and desist from prohibiting women from making application for work permits for the position of bartender in the City of Everett and shall cease and desist from denying women work permits solely on account of their sex.

The Respondent Board shall pay to the Complainant back pay for the period commencing with the Board's refusal to grant her a work permit as a bartender until such time as she is granted the said work permit. The amount shall be computed as follows:

Complainant's Average Weekly Earned Income, including tips, as bartender at J.P.'s Lounge	<u>\$180.00</u>
Projected Earnings at \$180.00 per week for the 19 week period of unemployment (March 1 - June 1 and July 15 - September 1)	\$3420.00
Less welfare assistance of \$92 per week for the 19 week period	<u>-\$1748.00</u>
<i>Damages owed Complainant by Board</i>	<u>\$1672.00</u>

5. Report to this Commission within thirty (30) days from date of service of this Order on what steps the Respondents have taken or are taking to comply with the above

Order.

Any person aggrieved by Order of the Commission may obtain judicial review thereof pursuant to Section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

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GLENDORA M. PUTNAM  
Chairman

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DAVID BURREN  
Commissioner

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BEN G. SHAPIRO  
Commissioner





THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

CHARLES A. RAMSAY

31 Mount Pleasant Street

North Cambridge, Middlesex County      FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDERS

AGAINST

ST. JOHNSBURY TRUCKING COMPANY      COMPLAINT NO.

40 Erie Street

Cambridge,      Middlesex      County      70-EMP-66-C

And

EDWARD ERWIN,      RITA SHAW,

RALPH AVEDESIAN,

EDWARD REAGEN and WALTER BUTLER

This cause came on for hearing before the Massachusetts Commission Against Discrimination before Hearing Chairman, David Burres and Hearing Commissioners, Gordon A. Martin, Jr., and Ben G. Shapiro, who, upon consideration of all the evidence, set forth their findings, conclusions and orders as follows:

**FINDINGS OF FACT**

1. Complainant resides at 31 Mount Pleasant Street, Cambridge, Massachusetts. Complainant is Black.

2. Complainant commenced employment with Respondent, St. Johnsbury Trucking Company in April of 1969 as a "tracing clerk" at a salary of one hundred and fifteen dollars (\$115.) per week.

3. Respondent, Rita Shaw, had the immediate responsibility for training the Complainant as a tracing clerk. Complainant often asked questions of Respondent Shaw in the course of learning his job and from time to time she responded that she did not know the answer or that the sub-

ject matter of the Complainant's question was not related to his position.

Approximately four (4) weeks after coming to work for the Respondent Company, Complainant went to the Company's Terminal Manager, Mr. Conrad, and complained to him of the difficulties he was experiencing with Respondent Shaw. Complainant did not suggest to Mr. Conrad that the difficulties he was encountering with Respondent Shaw resulted from the fact that he was Black.

4. Approximately five (5) weeks after first coming to work for Respondent Company, Complainant was transferred to the Department of Overages, Shortages and Damages where he worked closely with Respondent Ralph Avedesian.

Approximately seven (7) months after the Complainant came to work for Respondent Company, Respondents Shaw and Edward Erwin (Office Manager) were standing and talking near the office water cooler. Complainant attempting to pass by saw that he would have difficulty in doing so since Respondent Shaw's position near the water cooler had created a narrow passageway. Complainant said "excuse me" to Respondent Shaw and she responded in a manner complainant considered abusive; "Why didn't you walk through, Charlie? You should have work to do, Charlie. You've come here to bother me."

Shortly thereafter, the Complainant went to Respondent Erwin's Office and asked him if he had done anything wrong. Respondent Erwin replied that he hadn't and told the Complainant not to pay any attention to Respondent Shaw.

6. On approximately the same date as the above cited incident, Complainant and one Cathy Costa, a clerk in the office, had a difference of opinion as to who bore responsibility for a missing bill of lading. As their disagreement became more heated, Miss Costa used a racial epithet in referring to the Complainant.

Complainant went to Respondent Erwin's Office about

this incident, and Respondent Erwin told the Complainant that Miss Costa had no right to call the Complainant such names. Respondent Erwin then referred the Complainant to the Terminal Manager, Mr. Conrad, who told the Complainant that he would speak to Miss Costa. Mr. Erwin subsequently called Miss Costa into his office and she later came over to the Complainant and apologized for her actions.

7. On another occasion, Respondent Edward Reagen came over to the Complainant's desk and gave him some additional work to do. An argument ensued between the parties and culminated in Respondent Reagen telling the Complainant to either do the work assigned or to go home.

Complainant attempted to see Respondent Erwin about this incident but he was not in his office so the Complainant spoke to his secretary. Respondent Erwin's secretary told the Complainant that she would call Respondent Reagen and tell him not to trouble the Complainant any further.

8. During the Christmas season of 1969, an unidentified employee taped a picture of a monkey clothed in a suit on a wall in the office. On the picture appeared the printed words "I never even knew that the shipment was made." In handwriting on the picture were the words "this is ..." - the last word or words having been erased. Complainant was upset by the picture, feeling that it was a reference to him and his color. Despite his feelings, Complainant did not request of anyone that the picture be removed.

The picture which offended the Complainant has become a symbol for departments of overages, shortages and damages in many businesses and trucking terminals where such departments exist. The picture is intended to symbolize those situations where shipments had not been sent out properly or were damaged in transit etc.

9. On April 8, 1970, Respondent Ralph Avedesian and two (2) other employees, Pamela LaPointe and her mother, Pauline LaPointe, were talking together during their coffee-break. Complainant was sitting a few feet away from them. Mrs. LaPointe's son called her on the

telephone and said that a group of Black students had beaten up a white student at school. Respondent Ralph Avedesian commented that they should shoot the trouble-makers. Complainant became upset by this remark, but Respondent Avedesian told him that his comment was in no way directed towards the Complainant.

Complainant got up from his desk and went into Respondent Erwin's Office and recounted the episode to him. Respondent Erwin told the Complainant that he should not take these matters personally. An argument then ensued culminating in the Respondent Erwin's telling the Complainant to leave the office and go home. Complainant returned to work the next day, Tuesday, April 9, 1970 and was told by Respondent Erwin that he was terminated.

10. During the course of Complainant's employment, Mr. Robert Packard, personnel officer for Respondent Company, learned of Complainant's unhappiness in his job and arranged for a Mr. Harris of the Federal Office of Contract Compliance to come to the Company and speak to Complainant.

Also during the course of his employment, the Complainant had a number of meetings with the Terminal Manager, Mr. Conrad and with Respondent Erwin - Office Manager. During these meetings, the Complainant was told both by Mr. Conrad and Respondent Erwin that they tried to see to it that all the employees got along well, that they wanted the Complainant to keep working at the Respondent Company, and that the Respondent Company did not discriminate nor would any employee be permitted to discriminate against the Complainant because of his color, religion or speech.

During one of those meetings, the Complainant told Mr. Conrad to advise the other employees not to speak to him except on business related matters.

## CONCLUSIONS OF LAW



1. The Respondent, St. Johnsbury Trucking Company, 40 Erie Street, Cambridge, is an "employer" within the meaning of paragraph 5, Section 1 of Chapter 151B of the General Laws.

2. Complainant has failed to introduce evidence to support a finding that the Complainant's difficulties with Respondent's employees were caused on account of the Complainant's color.

Complainant has further failed to introduce evidence to support a finding that:

1. Respondent St. Johnsbury Trucking Company, by its actions, discriminated against the Complainant in violation of Paragraph 1, Section 4 of Chapter 151B of the General Laws.

2. Respondent St. Johnsbury Trucking Company, by its inaction, failed to stop its employees from harassing the Complainant because of his color, in violation of Paragraph 1, Section 4 of Chapter 151B of the General Laws.

## ORDER

Therefore, pursuant to Chapter 151B, Section 5 of the General Laws, it is hereby

ORDERED by the Massachusetts Commission Against Discrimination that the complaint be and hereby is DISMISSED.

Any person aggrieved by an order of the Commission may obtain judicial review thereof, pursuant to Section 6 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

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DAVID BURREN  
Acting Hearing Chairman

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GORDON A. MARTIN, JR.  
Hearing Commissioner



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BEN G. SHAPIRO  
Hearing Commissioner

Dated: 17 December 1971

THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

JOHN FLINTALL, JR.

16 Doone Avenue

Mattapan, Suffolk County

COMPLAINANT

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDERS

AGAINST

VILLAGE APARTMENT REALTY TRUST

d/b/a Morton Village Apartments

65, 75, 85 and 95 Morton Drive

Mattapan, Suffolk County

COMPLAINT No.  
70-PrH-88-C

And

ROBERT MIRAK, TRUSTEE

12 Plato Terrace

Winchester, Middlesex County

And

JOHN MIRAK AND EDWARD MIRAK, TRUSTEES

59 Morningside Drive

Arlington, Middlesex County

And

DAVID KATLER, AGENT

Morton Village Apartments

65 Morton Drive

Mattapan, Suffolk County

RESPONDENTS

Upon all the evidence at the hearing herein the Massachusetts Commission Against Discrimination before Glendora McIlwain Putnam, Chairman and Hearing Commissioner David Burres, finds that Respondents Village Apartment Realty Trust, Robert Mirak, John Mirak, Edward Mirak and David Katler have engaged in unlawful practices as defined in Chapter 151B, Section 4, para-

graph 6 of the General Laws of Massachusetts. Hearing Commissioner Ben G. Shapiro dissents in a separate opinion. The findings of the majority are as follows:

### FINDINGS OF FACT

1. The Complainant, John Flintall, Jr., is an unmarried male adult residing at 16 Doon Avenue, Mattapan, Suffolk County, Massachusetts. Mr. Flintall is Black.

2. Respondents Robert Mirak, John Mirak and Edward Mirak, are trustees of Respondent Village Apartment Realty Trust. Respondent David Katler is an agent of that trust. Messrs. Mirak and Katler are white.

3. Frederica Brin is an unmarried adult female residing at 630 Babcock Street, Brookline, Massachusetts. On July 24, 1970, Miss Brin was engaged to be married to the Complainant and was acting on his behalf as his agent in seeking to lease an apartment for the Complainant and herself to be occupied jointly after their marriage. Miss Brin is white.

4. On July 24, 1970, Respondent David Katler acting in his capacity as agent for the Respondent Village Apartment Realty Trust had his wife show Miss Brin an apartment. Mr. Katler then informed Miss Brin that an identical apartment would be available September 1, 1970 at a monthly rental of Two Hundred Dollars (\$200.).

5. Respondent Katler read Miss Brin questions from the rental application and wrote her responses on the application. Miss Brin signed the application for the Complainant and gave Mr. Katler a check for One Hundred Dollars (\$100.) as a deposit on apartment No. 412.

6. During the application process the Complainant's sister Mrs. Celestine Morgan entered the Office. Mrs. Morgan had been waiting outside in a car. Miss Brin indicated that she would be finished shortly and Mrs. Morgan withdrew.

7. Following this appearance by Mrs. Morgan, Mr. Katler telephoned Miss Brin's father and inquired as to the father's knowledge of his daughter's impending marriage. The father replied that he was not aware of his daughter's intention to marry.

8. Mr. Katler telephoned Miss Brin and Mr. Flintall at Mrs. Morgan's home and informed them that another couple had decided to take the apartment. Mr. Katler offered to return the deposit but the Complainant, Mr. Flintall, instructed Mr. Katler to retain the deposit. The deposit has not been returned.

9. The only investigative work on the part of the Respondents as to the applicant's rental status was Mr. Katler's telephone call to Miss Brin's father. No attempt was made to verify the applicant's salary, length of residence in the community, or credit rating.

10. The Complainant was employed at the time that the complaint was filed and during the course of the proceedings earning an average of Two Hundred Fifty Dollars (\$250.) per week.

11. The Complainant lost at least two days from work for processing of his complaint before the Commission and his attendance at the public hearing.

12. The Complainant was emotionally upset, disturbed and angered by the refusal of the Respondents to rent the apartment in question.

13. The sole reason why the Village Apartment Realty Trust, Robert Mirak, John Mirak, Edward Mirak, and David Katler made inquiry of Miss Brin's father as to the time of her proposed marriage and refused to rent the apartment in question to John Flintall was because the Complainant John Flintall was Black.

## CONCLUSIONS OF LAW

1. The apartment in question in this proceeding is apartment No. 412 and is located in the Morton Village

Apartments on Morton Drive in Mattapan, Suffolk County, Massachusetts, and comes within the definition of "other covered housing accommodations" within the meaning of Chapter 151B, Section 1, paragraph 13 of the Massachusetts General Laws.

2. The course of conduct, statements and dealings of the Respondents, Village Apartment Realty Trust, Robert Mirak, Edward Mirak, John Mirak and David Katler with respect to the Complainant, John Flintall, Jr., were such as to amount to a refusal to rent or lease an apartment to the Complainant, and a refusal to negotiate with the Complainant in good faith for the renting of an apartment because of his race or color and constituted an unlawful practice within the meaning of Chapter 151B, Section 4, paragraph 7 of the General Laws.

## **ORDERS**

On the basis of the foregoing and pursuant to the General Laws of Massachusetts, Chapter 151B, section 5, it is hereby ORDERED by the Massachusetts Commission Against Discrimination that the Respondents, their agents and servants:

1. Henceforth, and in the future, cease, desist and refrain from an inquiry, distinction, discrimination or restriction on account of race, color, religion, national origin or ancestry in the rental or sale or offering for rent or sale of any housing accommodations owned, controlled, or listed for rent or sale by the Respondent and from denying or causing to be denied on the basis of race, color, religion or national origin or ancestry the opportunity to rent or purchase or negotiate for the rental or purchase of said housing accommodations.

2. Return to the Complainant the One Hundred Dollar deposit (\$100.00).

3. Damages are hereby assessed against the Respondent as follows:

(a) loss of salary and mental suffering... \$100.00



Any person claiming to be aggrieved by an award of damages by the Commission may seek review thereof pursuant to Section 5 of Chapter 151B of the General Laws. Such proceeding must be instituted within ten (10) days of notice of such award.

Any person aggrieved by an Order of the Commission may obtain judicial review thereof pursuant to Section 5 of Chapter 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after the service of this Order.

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GLENDORA MCI. PUTNAM  
Chairman

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DAVID BURRESS  
Hearing Commissioner

DATED: December 30, 1971

Hearing Commissioner Ben G. Shapiro, concurring in part and dissenting in part:

### FINDINGS OF FACT

1. Paragraphs 1, 2, 4, 5, 6, 7, 8, 10, 11, and 12, of the majority findings are hereby adopted and incorporated as part of this opinion.

In addition, I find the following:

2. Frederica Brin is an unmarried, white, adult, female residing at 630 Babcock Street, Brookline, Massachusetts. On June 24, Miss Brin, on behalf of the Complainant, and acting as his agent, viewed an apartment at Morton Village Apartments and completed an application for the same, on behalf of the Complainant and herself. She indicated that she and the Complainant planned to be married at some unspecified date in December of 1970.

3. The application proposed occupancy for the two adults on September 1, 1970.

4. Miss Brin volunteered her father's name for addi-

tional information in the event it was necessary and she was unavailable.

5. Miss Brin was advised by Mr. Katler that the apartment in question had been viewed by another applicant prior to Miss Brin.

6. Mr. Katler telephoned Doctor Brin for further information and learned that Doctor Brin had no knowledge of his daughter's forthcoming marriage plans.

7. Following this telephone conversation, Mr. Katler determined that the September 1, 1970 proposed occupancy would result in the apartment being occupied by an unmarried couple.

8. Mr. Katler thereupon telephoned Miss Brin and advised her that the apartment was not available as it would be given to the earlier applicant.

9. The sole reason why Village Apartment Realty Trust, Robert Mirak, Edward Mirak, John Mirak, and David Katler refused to rent the apartment in question to John Flintall, Jr. was because of a threatened violation of law in the event the respondents rented and permitted the apartment in question to be occupied by the unmarried couple.

10. The respondents have an excellent record of making their premises available to minority groups, including interracial families, black families, and Spanish-speaking families.

## CONCLUSIONS OF LAW

1. Paragraph 1 of the majority conclusions of law are hereby adopted and incorporated as part of this opinion.

2. The course of conduct, statements and dealings of the respondents, Village Apartment Realty Trust, Robert Mirak, Edward Mirak, John Mirak, and David Katler, with respect to the complainant John Flintall, Jr. is not such as to constitute unlawful practice within the meaning of Chapter 151B, Section 4, Paragraph 7 of the General Laws.

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BEN G. SHAPIRO  
Hearing Commissioner



COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of

BOBBIE RAINES  
24 Wabon Street  
Roxbury, Suffolk County,

COMPLAINANT

MCAD Nos.  
70-Par.-4-6;  
70-EMP-113-C

AGAINST

JOSEPH RUGO, INC.  
115 Holmes Avenue  
Dorchester,  
Suffolk County; and  
RONALD B. KETCHUM  
Project Superintendent for  
Joseph Rugo, Inc.,

FINDINGS OF FACT  
AND ORDER

RESPONDENTS

INTRODUCTION

Mr. Bobbie Raines, a black male adult, filed a complaint with this Commission on June 15, 1970 alleging that Joseph Rugo Inc., a general contractor incorporated and doing business in Massachusetts, and Ronald B. Ketchum, a White person employed by Joseph Rugo, Inc. as a Project Superintendent, had violated the anti-discrimination provisions of Chapter 151B. More specifically, Mr. Raines' complaint alleged that as of June 12, 1970 he had been employed for at least a year by Respondent Joseph Rugo, Inc. as a laborer at that respondent's construction site located on the premises of Boston University. The complainant further alleged, in essence, that Respondent Ketchum, while acting as Respondent Rugo's Project Superintendent, generally afforded to Rugo's Black employees a standard of supervision different and more stringent than that afforded to Rugo's White employees. Finally, Mr. Raines alleged that the respondent's terminated him from



his job on June 12, 1970 in violation of Chapter 151B, Section 4 paragraph 1 which, in part, makes it unlawful for an employer or his agent to discharge an individual because of his race or color.

On or about August 5, 1970, when the above-described complaint, initiated by Mr. Raines, was pending, Mr. Raines approached Respondent Ketchum seeking reinstatement. Respondent Ketchum refused to rehire Mr. Raines. Thereafter, the Commission, pursuant to the provisions of Chapter 151B, Section 5, initiated a charge asserting that Joseph Rugo, Inc. and Ronald Ketchum violated Chapter 151B, Section 4, paragraph 4 which makes it unlawful for any person or corporation to "discharge, expel, or otherwise discriminate" against any person, such as Bobbie Raines, because he has opposed any practices forbidden by Chapter 151B or because he filed a complaint with this Commission.

For purposes of public hearing, the complaint filed by Bobbie Raines was consolidated with the Commission initiated complaint described in the preceding paragraph.

Respondents Joseph Rugo, Inc. and Ronald Ketchum filed General Denials in response to both complaints.

Public Hearings were held in Boston on September 25, October 30, November 13, December 11, 1970 and January 8, 1971. Extensive evidence was heard both in support of Mr. Raines' complaint and in defense of respondent Joseph Rugo, Inc. and Ronald Ketchum's conduct, policies, and practices. With regard to the Commission initiated complaint, the Commission heard testimony from Mr. Raines and Respondent Ketchum, Mr. Joseph Rugo, president of Joseph Rugo, Inc. and Mr. Lawrence P. Crowley a news photographer with WHDH-TV.

## FINDINGS

This Commission has jurisdiction over Respondent Joseph Rugo, Inc. and Ronald B. Ketchum as "employers" "agents" and "persons," pursuant to the provisions of

Chapter 151B, §1 *et seq.*

The Commission recognizes the principle that anti-discrimination laws prohibit "sophisticated as well as simple-minded modes of discrimination," *Lane v. Wilson*, 307 U.S. 268, 275 (1939), and will take appropriate steps to eliminate and remedy any harassment afforded members of minority groups by employers simply because of the minority persons race or color, if the evidence shows such adverse treatment. In the instant case however, the evidence is not sufficient for us to sustain the allegations made by Mr. Raines concerning the respondents' treatment of minority employees.

On the other hand, the evidence introduced relative to the Commission initiated complaint asserting a violation by the respondents of Chapter 151B, Section 4, paragraph 4, is more than sufficient to establish the respondents' participation in the alleged "unlawful practice," as that term is used in Chapter 151B.

All parties agree that an area-wide cement strike was in progress from May 1, 1970 to July 17, 1970 and it resulted in slow-downs and work stoppages in the construction industry generally necessitating personnel lay-offs in many work sites, including Respondent Rugo's Boston University site where Mr. Raines was employed. It is also undisputed that on or about June 12, 1970, during that cement strike, Mr. Raines' services were discontinued by the respondents.

The respondents contend that Mr. Raines was permanently discharged on June 12, 1970 for justifiable cause (i.e. insubordination and absenteeism), and not because of any natural attrition due to the aforementioned cement strike. They argue that the decision to discharge Raines was made on or prior to June 12, 1970, not subsequent to the filing of the June 15 complaint by Mr. Raines as alleged by the Commission initiated charge, and therefore the Commission-initiated charge is inappropriate. We disagree.

At the outset of the investigation conducted by the Commis-

sion in response to Mr. Raines' complaint of June 15, Mr. Angelo Collela, an investigator assigned to the case, interviewed Respondent Ketchum to acquaint him with the complaint filed by Mr. Raines and to inquire as to certain preliminary matters.\* Mr. Ketchum was asked by Mr. Collela as to whether he would reinstate Mr. Raines when the cement strike concluded. According to Mr. Collela, Ketchum replied to the effect that he would be willing to reinstate Mr. Raines but would subsequently discharge him if he failed to do his work as would any employee be discharged who failed to do his work (R.-53). This statement as reported by the Commonwealth's investigation is entirely consistent with Respondent Ketchum's statement broadcasted by WHDH-TV on its evening television newscast of August 7, 1970. On this occasion the Boston area television station presented a film, complete with authenticated soundtrack,\* of Mr. Raines and Mr. Ketchum being interviewed, separately, by a WHDH newsman. Mr. Ketchum was asked:

Mr. Ketchum, Mr. Raines says he was laid off as a result of black activity on the job and that he was treated unfairly here, he and other blacks that were treated unfairly on the job. How do you respond to that criticism?

Mr. Ketchum responded:

Well, I feel that this is completely incorrect. I felt that I have never discriminated or shown any preference one way or the other to white or black. Bobbie Raines case, in specific, he was laid off due to the

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\*the interview was conducted on June 22, 1970, prior to the alleged unlawful refusal to reinstate Mr. Raines and prior to the issuance of the Commission-initiated charge.

\*The film and soundtrack witnessed by the Hearing Commissioners during the Public Hearing of October 30, 1970, and admitted into evidence, was authenticated by Mr. Lawrence P. Crowley, a WHDH News photographer who filmed the original interviews. Neither the film nor the testimony of Mr. Crowley was objected to by the respondents, but for some unexplained reason the transcript fails to reflect the oral content of the filmed interview. The Commissioners, however, have available to them verbatim notes of the film's contents. We know these notes to be an accurate transcription of the film's soundtrack and have attached them hereto so as to render the transcript complete in this regard.

concrete strike. We were six weeks into the strike. I was laying off up to, I started the strike with 60 men, I ended the strike with 5 men. Now Bobbie Raines was one of the 50 or so men that was laid off during the course of the strike.

Respondent Ketchum testified at the public hearing. He, in essence, retracted the statement attributed to him above. He would have us believe that he fabricated the reason stated in the interview for Mr. Raines' dismissal (i.e. concrete strike) in order to protect Mr. Raines from public criticism. (R-3-109). With due regard to our assessment of Mr. Ketchum's testimony and to his general deportment as a witness, we find that Mr. Raines was laid off on June 12, 1970, as a consequence of the concrete strike.

It is undisputed that on or about August 5, Mr. Raines approached Respondent Ketchum seeking employment at the Boston University work site. Also undisputed is the fact that his efforts were unsuccessful.

What is in dispute here is the respondent's reasons for refusing to reinstate Mr. Raines. The respondents contend that Mr. Raines was not reinstated because of his previous employment record with the company; the fact that Mr. Raines had filed a complaint with this Commission, the respondents assert, had no bearing on that decision. The record however, belies this contention. During the course of the same interview with WHDH-TV newsmen referenced above, Mr. Ketchum was asked: "why was (Mr. Raines) not hired back?" Mr. Ketchum responded:

Bobbie Raines was not hired back at the end of the (cement) strike because after he was, I, after he was laid off and which I felt was in good faith and when I intended to hire him back the next thing I knew he had instigated charges of discrimination against me with the Massachusetts State Commission Against Discrimination.

Since Chapter 151B, Section 4, para. 4 makes it an "unlawful practice" ... to discharge, expel or otherwise



discriminate against any person because he has opposed any practices forbidden under this chapter or *because he has filed a complaint* . . . , "Mr. Ketchum's out-of-court statement is admissible as an admission that he engaged in an "unlawful practice" as that term is defined in Chapter 151B. We find that respondent Ketchum did engage in an unlawful practice and that at all times relevant to this case he was acting as the Project Superintendent and principal agent for Respondent Joseph Rugo, Inc. (R-3-50-52 and 103-105). We also find in this connection that Respondent Joseph Rugo, Inc. did nothing to remedy the unlawful practice either when it was done or subsequent to the issuance of the Commission initiated charge. (R-4-32-34).

Chapter 151B, Section 5, requires the Commission after a finding that a respondent has engaged in an unlawful practice to issue an order -

requiring such respondent to cease and desist from such unlawful practice . . . and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay . . . as, in the judgement of the Commission, will effectuate the purpose of this chapter . . ."

All that remains, therefore, is for us to ascertain the consequence of the respondents' unlawful practice and to provide for an adequate remedy. Certainly Mr. Bobbie Raines was wronged; he was not employed due to the respondents' unlawful conduct. The record shows that during the five week period following the respondents' refusal to reinstate Bobbie Raines, he was unable to find employment except for one day. (R-5-6; 5-14; 5-15); and that he had previously earned an average of \$214.00 per week while employed by the respondents (R-5-5; 5-7; 5-16). It appears that but for the respondents' unlawful conduct Mr. Raines would have earned a total of \$1,070 during the subject period.

The general public too was injured by the respondents' unlawful conduct. The respondents' violation was not per-



petrated in a covert manner; rather, it was published to a newsman with the knowledge that it would be documented, orally and visually, and broadcasted to a New England audience. We can take administrative notice that such conduct has a "chilling effect" on other minority Rugo employees, and minority persons generally, who may wish to come forward with complaints of Chapter 151B violations, but are reluctant now to do so for fear of retaliation from their employers. Our Order must address this situation.

The foregoing is intended to serve as the findings of fact required by Chapter 151B, section 5.

### **ORDER\***

On the basis of the foregoing it is hereby ORDERED, ADJUDGED and DECREED by the Massachusetts Commission Against Discrimination that the respondents, their officers, employees, agents and successors, and all persons in active concert for participation with any of them, shall cease and desist from taking any action whatsoever which discriminates, or tends to discriminate, against any person(s) because that person has filed a complaint with this Commission pursuant to Chapter 151B, section 5.

IT IS FURTHER ORDERED that the named respondents shall pay the sum of \$1,070.00 to complainant Bobbie Raines, via his Attorney, in order to compensate him for pay he would have earned but for respondents' unlawful conduct. This obligation of the named respondents is joint and several and shall be satisfied within ten days of the effective date of this ORDER.

IT IS FURTHER ORDERED that, no later than ten days after the effective date of this Order, Respondent Joseph

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\*Section 5 of Chapter 151B provides that any person claiming to be aggrieved by an award of damages ordered by the Commission may seek judicial review of same. Such proceedings must be instituted within ten (10) days of notice of such an award. Section 6 of the same chapter also provides for judicial review by any person claiming to be aggrieved by an order of the Commission. These proceedings must be instituted within thirty (30) days after service of the Order. The instant Order, therefore, shall be deemed effective upon the thirty-first (31) day after service upon counsel for the respective parties.

Rugo, Inc., shall place in the *Bay State Banner* and the *Boston Globe* a quarter-page "Notice" containing the following language:

An employee of Joseph Rugo, Inc., a general contracting firm, made a statement on a Boston Television News program to the effect that a minority worker formerly in our employ was not reinstated because he filed a complaint with the Massachusetts Commission Against Discrimination charging this company with racially discriminatory employment practices. The owners and managers of Joseph Rugo, Inc., regret that this statement was made.

Our policy is to hire and treat all persons alike, without regard to their race and/or color. We recognize also the function of the Massachusetts Commission Against Discrimination to resolve complaints of unlawful discrimination and to assist employers in their efforts to comply with the letter and spirit of the law. We welcome the Commission's assistance.

Joseph Rugo, Inc., therefore, wishes to correct any false impressions which may have been created by its employee's statement and to restate our intention to operate pursuant to an equal employment opportunity policy.

The Notice shall include the business address of respondent Joseph Rugo, Inc. Thereafter, Respondent Joseph Rugo, Inc., shall place an identical "Notice" in the same newspapers every ninety days for a period of two years.

So Ordered this 31st day of December, 1971.

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DAVID BURRESS  
Hearing Commissioner

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GORDON A. MARTIN, JR.  
Hearing Commissioner

## ATTACHMENT

Raines v. Joseph Rugo, Inc. et al.

MCAD Nos. 70-Par. - 4-6; 70-EMP-113-C

Interview by WHDH-TV Newsman with Mr. Bobbie Raines:

WHDH-TV: Mr. Raines, when were you laid off?

Raines: I think it was in June.

WHDH-TV: You were laid off?

Raines: Right

I was laid off because of politics on the job and persons that they are Mr. Ketchum must have put more pressure on the blacks and not on the whites and I became more involved and that is the reason why I been let go off my job.

WHDH-TV: Mr. Ketchum, the supervisor, told you that you were laid off for politics?

Raines: Not frankly, he didn't come out with that statement that I was laid off for politics, but he had been telling me on the site, warning me that they know I was a good worker on the site but I was most involved with this politics, black politics, if I leave that alone I would be a good continued worker.

\* \* \*

Interview by WHDH-TV newsman with Respondent Ronald B. Ketchum:

WHDH-TV: Mr. Ketchum, Mr. Raines says he was laid off as a result of Black activity on the job and that he was treated unfairly here, he and other blacks that were treated unfairly on the job. How do you respond to that criticism?

Ketchum: Well, I feel that this is completely incorrect. I felt that I have never discriminated or shown any preference one way or the other to white or black. Bobbie Raines case, in specific, he was laid off due to the concrete strike. We were six weeks into the strike. I was laying off up to, I started the strike

with 60 men, I ended the strike with 5 men. Now Bobbie Raines was one of the 50 or so men that was laid off during the course of the strike.

WHDH-TV: Why was he not hired back?

Ketchum: Bobbie Raines was not hired back at the end of the strike because after he was, I, after he was laid off and which I felt was in good faith and when I intended to hire him back the next thing I knew he had instigated charges of discrimination against me with the Massachusetts Commission Against Discrimination.



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

On Relation Of:

THE CHARLES STREET AUDIO EMPORIUM, INC.

FINDINGS OF FACT,  
CONCLUSIONS OF  
LAW AND ORDERS

And

WALDREN C. JOSEPH, JR., AS AN  
INDIVIDUAL AND AS MANAGER OF THE CHARLES  
STREET AUDIO EMPORIUM, INC.  
139 Kelton Street  
Allston, Suffolk County

COMPLAINT NO.  
PrH-XI-37-C

AGAINST

KEATING REALTY COMPANY  
66 Beacon Street  
Boston, Suffolk County

And

THOMAS KEATING

This cause came on for hearing before the Massachusetts Commission Against Discrimination before Hearing Chairman David Burres, Hearing Commissioner Ben G. Shapiro and Hearing Commissioner Gordon A. Martin, Jr., who dissents as set forth hereafter. The majority of the hearing panel, upon consideration of all the evidence, sets forth its findings, conclusions and orders as follows:

**FINDINGS OF FACT**

1. Complainant, Waldren C. Joseph, Jr., 239 Kelton Street, Wellesley, Massachusetts, is Black. Charles Street Audio Emporium Inc., was formed early in March of 1969 for the specific purpose of renting property at 81 Charles Street, Boston, and conducting its business there.

2. Respondent Keating Realty Company is the owner of commercial space at 81 Charles Street, Boston, Massa-



chusetts.

3. On February 28, 1969, Mr. William Tannebring, had a telephone conversation with the Respondent, Mr. Thomas Keating, with reference to leasing the store at 81 Charles Street. Mr. Keating requested financial references and Mr. Tannebring cited the Union Market, National Shawmut and the Unity National Banks. The Respondent inquired if the Unity Bank were not a "colored bank" and then asked for the name of another bank to serve as a credit reference. Mr. Keating then asked if Mr. Tannebring planned to have any "colored" employees and when the response was affirmative, stated that he "didn't want any left-wing hippies moving into the neighborhood." The Respondent then declared "let's forget the whole thing" and slammed down the receiver.

4. On or about March 5, 1969, the Complainant, Waldren C. Joseph, Jr., filed a verified complaint with the Massachusetts Commission Against Discrimination.

5. On April 25, 1969, Mrs. Erna Ballantine, the Investigating Commissioner, notified the Respondent that a finding of probable cause had been made of illegal discrimination in the rental of commercial space in violation of ch. 151B, S4, p8, of the General Laws based on the events specified in paragraph 3. After several conferences were held the Respondent offered to enter into a conciliation agreement by which he would show and rent space to the Complainant subject to the terms of the conciliation. Implicit in the conciliation agreement was the condition that the Complainant's credit be deemed suitable by the Respondent. The case was closed and the complaint accordingly dismissed.

6. Thereafter, Respondent requested and received a report from the Dow Service firm on the Complainant's personal credit, which was found to be inadequate.

7. Respondent then requested that the incorporators of the Charles Street Audio Emporium Company assume personal liability on the lease but they refused.

8. A complaint was filed with the Commission on May

2, 1969, and was based upon the Respondents refusal to rent the premises to Mr. Joseph on April 29, 1969, and was later amended to include the events of February 28, 1969.

Mr. Keating refused to rent the premises at 81 Charles Street to Mr. Joseph individually based upon the adverse credit report issued by the Dow Services firm and declined to lease the premises to the Charles Street Audio Emporium Company because the incorporators refused to sign the lease personally.

## CONCLUSIONS OF LAW

1. The course of conduct and dealings of the Respondents with respect to the complaint dated May 2, 1969, and numbered PrHX1-37-C, that Mr. Joseph was refused commercial space at 81 Charles Street on April 29, 1969 because of his race were not found to have constituted an unlawful practice within the meaning of ch. 151B, S4, p8 of the General Laws.

2. The course of conduct and dealings of the Respondents with respect to the complaint dated March 5, 1969, and numbered PrHX1-19-C, that Mr. Joseph was denied an opportunity to lease said premises in February, 1969, because of his race are not properly before the Commission. Said unlawful discrimination was processed to conciliation which bars further action on the issues raised by that complaint. That case must remain closed in order to protect the integrity of the Commission's conciliation procedures and to uphold the finality of the Commission's orders.

## ORDER

THEREFORE, pursuant to ch. 151B, S5 of the General Laws it is hereby

ORDERED by the Massachusetts Commission Against Discrimination that the complaint be and is hereby dismissed.

Any person aggrieved by any Order of the Commission may obtain judicial review thereof, pursuant to Section 6 of Ch. 151B of the General Laws. Such proceeding must be instituted within thirty (30) days after service of this Order.

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DAVID BURRES  
Acting Hearing Chairman

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BEN G. SHAPIRO  
Hearing Commissioner

December 31, 1971

Hearing Commissioner Gordon A. Martin, Jr., dissenting:

The question that presents itself in this case is whether this Commission is bound by the letter of Erna Ballantine, Investigating Commissioner, dated April 25, 1969, wherein she closed the original case (Complaint No. PrHX1-19-C) after a finding of probable cause and after conciliation.

This case presents difficult considerations of law and policy for this Commission. The Respondent Keating's racial inquiries of February 28, 1969 as set forth in paragraph three (3) of the Commission's findings constituted racial discrimination of the most blatant and unequivocal variety.

I do not concur with the majority that there was no unlawful practice in the April 29th refusal of the Respondent to negotiate a lease of the premises in question to the Complainant Waldren C. Joseph, Jr. In my opinion, the Respondent's refusal to lease the premises in question to the Complainant Joseph and to Charles Street Audio Empo-



rium, Inc., was based not upon his analysis of the personal credit of the Complainant being inadequate but rather was predetermined by the color of the Complainant. Further, I find that this refusal was directly related to the original complaint of February 1969.

In any case, I further find that the Commission having entertained the Complainant's motion to amend the complaint to add the events of February 1969 set forth in the original complaint and having granted said motion, now, in my opinion, the Commission is not bound by the Ballantine letter and has before it for consideration the events of February 28, 1969 and may take them as part of the instant complaint.

While I believe that the better procedure would have been to reopen the original complaint on the basis that the conciliation agreement was entered into by the Respondent in bad faith and further, that conciliation had failed, nevertheless, this procedural flaw is one of form rather than substance. Accordingly, I make the following findings:

1) The Complainant Waldren C. Joseph, Jr., who is Black, on or about February 29, 1969 pursuant to a newspaper advertisement visited the premises at 81 Charles Street for purposes of considering the leasing of this space.

2) Following his view of the premises, the Complainant telephoned the Respondent Keating to discuss the possible leasing of the premises.

3) When the Complainant informed the Respondent that he presently is located in Roxbury, the Respondent hung up the telephone and terminated the conversation.

4) On or about February 28, 1969, Mr. Tannebring telephoned the Respondent to inquire about the



premises in question.

5) During Mr. Tannebring's conversation with the Respondent, Tannebring gave the name of the Unity Bank as a credit reference.

6) The Respondent, during the conversation, characterized the Unity Bank as a "colored bank" and inquired as to whether or not there would be colored employees.

7) On or about the 5th day of March 1969, the Complainant, Waldren C. Joseph, Jr., filed with the Massachusetts Commission Against Discrimination a verified complaint; that on or about the 25th day of April 1969, Erna Ballantine, Investigating Commissioner, found probable cause and issued terms of conciliation.

8) The Respondent Keating entered into and agreed to the said terms of conciliation in bad faith and had no intent to comply.

9) Sometime in late April 1969, the Complainant through his counsel of record, advised the Respondent of the Complainant's readiness to execute the lease with a personal guarantee by one of the corporation's stockholders, Mr. Glickman.

10) The Respondent, contrary to the terms of conciliation refused to negotiate the lease of the space in question and rented the space to another individual.

11) I find that the sole reason that the Respondent refused to negotiate to lease the space in question with the Complainant on or about February 1969 was because the Respondent believed the Complainant to be Black.

12) I find that the Respondent entered into the conciliation agreement with Erna Ballantine, Investigating Commissioner, in bad faith with no intent to comply.

13) I find that the refusal of the Respondent to negotiate the lease of the said premises on April 1969 with the Complainants, Waldren C. Joseph, Jr., and Charles Street Audio Emporium, Inc., was based upon the Complainant's color.

## CONCLUSIONS OF LAW

The course of conduct and dealings of the Respondent with respect to the original Complaint numbered PrHX1-19-C to wit:

1. That the Respondent refused to discuss the leasing of the commercial space at 81 Charles Street with Mr. Waldren C. Joseph, Jr., constituted an unlawful practice within the meaning of Chapter 151B, Section 4, Paragraph 8 of the General Laws.

2. The course of conduct and dealings of the Respondent with respect to the instant complaint to wit: That Complainant was denied the opportunity to lease the said premises constituted an unlawful practice of Chapter 151B, Section 4, Paragraph 8 of the General Laws.

## ORDERS

I would assess damages and order other appropriate relief in accordance with the above findings and conclusions of law.

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GORDON A. MARTIN, JR.  
Hearing Commissioner



## ADMINISTRATION DIVISION

The following budgetary summary covers all financial activity of the Massachusetts Commission Against Discrimination (main office in Boston and branch offices in New Bedford, Springfield and Worcester) during the 1971 fiscal year:

### *Analysis of Disbursements:*

Salaries - Permanent .....	\$489,631.80
Salaries - Temporary .....	73,326.39
Services - Non-Employees .....	19,153.92
Heat and Light .....	2,904.00
Travel and Automotive .....	10,849.76
Advertising and Printing .....	2,076.15
Repairs .....	590.67
Special Supplies and expenses .....	35.00
Office and Administration .....	19,864.18
Equipment .....	2,545.45
Rentals .....	44,641.69
	<u>\$665,619.01</u>

Appropriations .....	\$736,854.00
Disbursements .....	\$665,619.01
Reverted .....	36,341.32
Encumbered .....	34,893.67
	<u>\$736,854.00</u>

The MCAD was the recipient of the following Federal grants (monies received during period January thru December 1971):



Equal Employment Opportunity Commission	
Contract No. 71-17 .....	37,100.00
Equal Employment Opportunity Commission	
Contract No. 70-45 .....	28,200.00
Equal Employment Opportunity Commission	
Contract No. 70-25 .....	24,500.00
Housing and Urban Development	
Contract No. CPA MA 01 06 1000 .....	49,891.35
	<u>\$ 139,691.35</u>

## AFFIRMATIVE ACTION DIVISION

George Coblyn, Director  
Burnie Malloy, Assistant Director

During 1971, the Commission's Affirmative Action Division worked with other divisions in an effort to effect compliance, throughout the Commonwealth, of the Governor's Executive Order No. 74. The MCAD sent out questionnaires to determine to what degree change had been brought about in the employment policies and practices of employers throughout the Commonwealth as these policies and practices relate to minority-group persons. The survey revealed little positive change and showed that many State agencies had not responded affirmatively to the directives and recommendations of the Governor's Executive Order No. 74.

The Affirmative Action Division, during 1971, was successful in efforts to see a large supermarket establish a facility in the Black community. A large chain food store did affirmatively respond to the Commission's urging that a facility be established in the Roxbury community. The new store is located at the Washington Mall in Roxbury (a predominantly Black community) and has a total work-force of 65 employees. (Fifty-six of these are minority-group persons and three of the four managers are minority.) Gross sales for the first three months exceeded the \$62,000 "estimated" monthly gross by over \$20,000.

One of the primary functions of the Commission's Affirmative Action Division is to provide the expertise and needed background to employers, to property owners, to agents, to educators, etc. — whether State or private — for structuring and effecting acceptable affirmative action programs within their establishments, to ensure equal opportunities to all people of the Commonwealth in the areas of education, employment, housing and public accommodations, regardless of race, color, sex, age, religious creed, national origin, ancestry or military status. When the Commission issues a probable cause finding, after investigation of a complaint,

a part of the remedy — whether through conciliation or after public hearing — is usually for the structuring and effecting of an acceptable affirmative action program to provide equal opportunities for all persons. The Commission has vested its Affirmative Action Division with the responsibility to provide the respondent with the assistance needed to effect such a program.

In conjunction with the Education Division of the MCAD, and pursuant to orders by the Commission after public hearings, this Division worked with several school departments to oversee their affirmative efforts to recruit minority administrative and teaching personnel. In addition, the Division worked with the field staff and investigating commissioners to develop affirmative action programs as a remedy, in many cases, as part of the conciliation effort.

## COMMUNITY RELATIONS DIVISION

**James R. Davis, Director**

**Barbara R. Chandler, Assistant Director**

The Community Relations Division's primary function is to provide MCAD representation within the communities throughout the Commonwealth.

In continued compliance with Chapter 151B of the General Laws of the Commonwealth, this Commission establishes and works with advisory councils in the various sections of the State. These advisory councils lend invaluable assistance and support to the work of the Commission by providing proper representation for the MCAD through direct community contact. There were 11 councils functioning during 1971 — an increase of 1 council over the previous year. Among the most significant achievements realized by the various councils during 1971 was discernible progress in development of understanding and rapport among the Spanish-speaking citizens. Special meetings were held in those areas of the State having sizeable Spanish-speaking communities for the sole purpose of educating the people regarding the work of the MCAD and this Commission's responsibility to them. These meetings were conducted in Spanish by the Commission's Spanish-speaking staff persons. The MCAD, through efforts of the Community Relations Division, was successful in bringing about improved relations within the community in several tension-ridden areas (Lynn, Cambridge, Holyoke, Brockton, Easthampton, Springfield, Boston and Dorchester are but a few) — during times of stress involving school matters, police brutality cases, housing problems and employment problems.

MCAD meetings were held in 10 communities for purpose of effecting implementation of the Emergency Employment Act, which is designed for the protection of minority-group persons in employment areas.

An ad hoc committee, called the Massachusetts Association for Improvement of Human Relations, was established



to educate police officers in the channels of improved human relations. This committee developed a training program consisting of two workshop sessions — four hours each — for police officers in selected areas of the State.

The Community Relations Division of the MCAD worked extensively with the minority student groups of the various local colleges in an effort to stress the importance of non-violent demonstrations.

The Commission continues to work for new and improved programs to bring about integration of minority-group persons in the construction industry, and Community Relations continues to be an integral part of this effort. One example of such effort is the MCAD's involvement with development of programs to ensure substantial minority-group representation in government contracts. A Worcester Plan and a Springfield Plan were developed as a result of this effort.

Various commonwealth towns having government contracts were assisted by the MCAD in framing town warrants to ensure proper representation from the minority community — where work involving government contracts was concerned.

The MCAD continues to be represented by the Community Relations Division in community matters throughout the Commonwealth which involve problems, tensions, overall advancement and general rapport in the areas of education, housing, public accommodations and employment concerning the minority-group segment of our society.

## COMPLIANCE DIVISION

**Robert Mahoney, Director**  
**Roger McLeod, Assistant Director**

During the year 1971, the MCAD's Compliance Division continued its efforts to implement the Governor's Executive Order No. 74 (Governor's "Code of Fair Practices"). This Executive Order requires that all state agencies and appointing authorities of the Commonwealth initiate affirmative action programs — which are subject to review by the Compliance Division of the MCAD — to ensure equal employment opportunities for all citizens of the Commonwealth.

Pursuant to this Order, the Compliance Division conducted a survey of all state agencies throughout the Commonwealth. The Commission's staff visited agencies and their units throughout the state to explain the provisions of Executive Order No. 74 and to help these agencies develop affirmative action programs.

This first annual employment survey by the MCAD revealed that of a total of 58,259 state employees, only 2,988 (5.1%) are minority-group persons. The MCAD, through efforts of the Compliance Division, will continue to work with Equal Employment officers of State agencies to increase minority-group representation in State government.

The MCAD, through its Compliance Division, developed a Construction Compliance and Affirmative Action Plan for construction of the University of Massachusetts (Boston). On-site reviews at the University of Massachusetts (Boston) are conducted on a weekly basis. Contractors' manpower reports for this project are also received on a weekly basis. Manpower reports for the month of October reflect the following employment status of Columbia Point residents as affected by this project. Columbia Point residents involved were either unemployed or underemployed prior to employment on the project. Assuming that the annual income of the residents currently working will be at least \$8500 per year,

there is now a sum in excess of \$500,000 going to the families in that community.

Over-all employment (in construction) on-site was about 541 for the week ending October 29th; of this number, the total minority employment was about 111 (20% of the total).

Phase II of the affirmative employment program will soon be under way; so, the current level of minority employment should increase.

The Compliance Division's staff members also conducted preconstruction conferences with all contractors having State contracts in excess of \$100,000. Similar conferences are conducted with vendors of goods and services having contracts in excess of \$100,000.

The MCAD started an on-site survey of the more than 700 nursing homes in the Commonwealth to ensure equality for all — regardless of race, color, religious creed or national origin. Follow-up investigations were conducted on those cases previously studied, which had been given "compliance" directives by the MCAD, and several complaints were referred to the Attorney General's Office for enforcement of compliance with the MCAD's Final Order.

Over 100 meetings were conducted with representatives of the Department of Transportation, Department of Education and the Department of Community Affairs and other organizations preparing contract language for all state construction projects.

Through efforts of the Compliance Division, the MCAD during 1971 completed

- 155 pre-construction conferences with contractors,
- 58 post-construction conferences,
- 83 on-site reviews,
- 165 compliance reviews — State agencies,
- 51 compliance reviews — Goods & Services, and
- 154 special assignments.



## EDUCATION DIVISION

**Janet Bryant, Director**

**William Nickerson, Assistant Director**

The MCAD has responsibility to enforce the Fair Educational Practices Act, Chapter 151C, of the General Laws of the Commonwealth, and to provide programs designed to ensure equal educational opportunities for all citizens of the Commonwealth, and the Education Division of the MCAD is vested with this function. This responsibility extends to all educational systems within the Commonwealth and to all levels within each such system.

Toward fulfillment of this responsibility, the Education Division has been involved in a three-fold program which includes the following: enforcing the anti-discrimination laws as they apply to education, working with school departments and colleges to structure affirmative action programs for those institutions, and dealing with tension situations in education which stem from discriminatory practices. The program has involved school administrators and staff, parents, students, and various agencies and individuals concerned with education. The MCAD's 1971 educational opportunities program included the following:

### *Educational Opportunities for Non-English Speaking Students*

Recognizing the need for bilingual education for the 40,000 Spanish and other non-English speaking students in the Commonwealth, the MCAD, through efforts of its Education Division, utilized its resources to promote passage of the Bilingual Education Bill. This legislation makes it compulsory for school districts to provide bilingual education if more than 20 students with limited English-speaking ability in one specific language reside in the district. Coordination of the State-wide bilingual coalition, consisting of 66 organizations which conducted an extensive State-wide lobbying effort primarily responsible for the passage of the bill, was one of the division's top priority activities. In November,



Governor Sargent signed legislation which made Massachusetts a pioneer in bilingual education — first state in the nation to make it mandatory for school districts to provide meaningful education for Spanish, Italian, Greek, Chinese, Portuguese, and other non-English-speaking children.

### *Affirmative Action In Education*

Under the provisions of Executive Order No. 74, the Governor's Code of Fair Practices, the Commission is developing Affirmative Action Programs in public schools in order to remedy existing patterns or practices of discrimination. Affirmative Action programs in educational institutions include recruitment, admissions and support services for minority students and employment practices (recruitment, hiring and promotion) of professional staff members. This Division has been working with various school departments and colleges throughout the Commonwealth to assist in forming and implementing suitable programs.

As a follow-up step to last year's investigations of recruitment and admissions of minority students and employment practices in various state colleges, the MCAD has been working with the Board of Trustees of state Colleges to set up a model affirmative action program to be implemented in the various colleges. Technical assistance is being offered to private colleges, and sample model programs are being drawn up so that meaningful affirmative programs in these areas might be initiated.

As a result of findings in specific cases brought before the Commission, review and technical assistance has been given to programs developed by the school departments of Hull, Hanson and Dennis-Yarmouth. Review and assistance will be extended to other school departments.

### *Investigations*

In addition to our investigations of hiring practices concerning minority professional personnel in educational institutions, we are also concerned with vocational training and job opportunities. An investigation of vocational education is being conducted to determine the relevance of voca-

tional education programs and actual job opportunities. This has been initiated in the Boston schools and is planned to include other communities with minority populations and education needs.

The Commission has been working on various cases involving the Boston School Department. The "Elite Schools" case will be scheduled for public hearing in early 1972. This case involves alleged disparate admissions policies and practices at Boys' Latin School, Girls' Latin School and Boston Technical High School. An ongoing investigation of alleged discriminatory practices in educational facilities and programs for Spanish-speaking students in the Boston public schools has resulted in many improvements and changes. The enactment of the Bilingual Education Bill will further help to improve programs for these students.

*Massachusetts Committee For Education And Human Relations (MCEHR)*

The Commission has been part of a landmark project in group cooperation. The project, known as the MCEHR, consists of representation from the American Jewish Committee (a private agency), the Massachusetts Teachers' Association (a professional organization) and the MCAD, a State agency. The MCEHR has been concerned with the increasing demands being made of teachers and administrators in dealing with the content and processes of racial changes in the classroom. The general goal is to spearhead an inter-group relations movement across the Commonwealth which will involve both community and educators. Training programs have been held in various parts of the State — both for individual schools and on a regional level.

The MCEHR sponsored a conference on the topic of "Student Unrest" — this conference was attended by some 75 participants from 25 school systems in the State. Planning sessions were held with teacher groups from several school systems to help them develop teacher training programs in inter-group relations, prejudice and discrimination.

Workshops were sponsored for the school departments of Beverly, Pittsfield, and Gardner. These workshops acquainted

educators with issues and techniques to be used in identifying and dealing with such problems as racial tensions, student unrest, discrimination and poor communication. Teachers received in-service credits for these courses; Gardner teachers received 3 graduate level credits from Fitchburg State College. In all, more than 250 teachers and administrators participated in the programs.

### *MCAD Education Task Forces*

Education task forces have been set up in the advisory council areas. These task forces have been working with problems on a local level and have been instrumental in bringing local school problems to the attention of the Commission and working with us to implement needed changes. The Berkshire task force helped to initiate the Pittsfield teacher workshop and the Springfield task force helped initiate a school-community committee to work on problems of Spanish-speaking students at a Springfield Junior High School. All the task forces, particularly the Boston Suburban group, worked actively to support the Bilingual Education Bill.

### *Nursing Education Committee*

The Nursing Education Committee held its second conference on the topic, "*Problems Which Affect Minority Students in Nursing Careers.*" This meeting, held with the cooperation of the Worcester School Department, included guidance counselors, and admissions and recruitment staffs of schools of nursing in the Worcester area.

The Nursing Education Committee has also published a pamphlet for junior and senior high school students titled, "Nursing Needs You." This pamphlet details problems faced by minority-group students who are considering nursing as a profession.

### *Future Plans*

The MCAD's Education Division is now formulating programs for 1972 to include a continuation of effort in both the investigative and affirmative action aspects of the division, in order to ensure equal opportunities in education for all citizens of the Commonwealth.



## FEDERAL GRANT PROGRAMS

### Equal Employment Opportunity Commission

The Massachusetts Commission Against Discrimination in 1971 received financial and technical assistance from the United States Equal Employment Opportunity Commission (EEOC). With funds supplied by the EEOC, this Commission was able to obtain the services of nine additional staff persons.

The EEOC Grant staff worked with the MCAD's Field Operations Division for improvement in execution of its traditional functions (investigation, conciliation and general processing of all complaints filed with the Commission). This Grant program also focused on the existing policies, procedures, rules, regulations and legislation which govern or influence the Commission's administrative and adjudicatory functions. Attempts were made to effectuate some changes in these areas by 1) proposing new rules and regulations; and 2) drafting appropriate legislation for submission to the General Court.

The MCAD, through pre-complaint investigations of prospective respondents' policies and practices relative to employment, gathered evidence sufficient to establish the requisite "reason to believe," and, thus, initiated several complaints on its own motion. Such complaints were initiated, for example, against a significant portion of the construction industry doing business in the Metropolitan Boston area. These complaints alleged unlawful discrimination against prospective black and Spanish-speaking employees by both trade unions and individual contractors.

The Massachusetts Commission Against Discrimination was one of three states funded by the Equal Employment Opportunity Commission to develop an effective method of rendering relief for women from unlawful sex discrimination in employment. The primary purpose of this funding is to provide needed manpower to process class-action complaints based upon the patterns and practices of Massa-



chusetts employers which tend to deny women equal employment opportunities, and to institute affirmative action programs designed to ensure equality in terms, conditions and privileges of employment — without regard to sex.

A very significant power frequently exercised by the MCAD is the issuance of a Commission-initiated complaint when the Commission believes that an employer is engaged in unlawful employment practices. Pursuant to such power and in line with its stated objectives, the EEOC staff assisted the Commission in this area by gathering material through research and investigations sufficient to support these commission-initiated complaints. During 1971, the MCAD through such complaints inquired into the patterns and practices of nine companies, each employing over 1,000 persons. Negotiations with two of the companies resulted in the development of affirmative action programs for women which hopefully will become effective during 1972.

The EEOC Grant staff assisted the Commission in drafting and filing legislation which would afford women additional rights under the law. As a result of this effort, the housing and public accommodations statutes administered by the MCAD were amended in 1971 to include sex. Also, the Grant staff worked with the Commission to revise its guidelines relative to sex discrimination in employment, with emphasis on maternity leave. (The MCAD was one of the first human rights agencies in the country to provide such comprehensive protection for pregnant women who wish to continue their careers after childbirth.)

## Housing and Urban Development

In January of 1971, the Massachusetts Commission Against Discrimination was awarded a grant from the federal government's Department of Housing and Urban De-

velopment. Purpose of this program is to assist the MCAD in its attack against "systemic" discrimination in housing.

The MCAD and the State Advisory Committee to the United States Commission on Civil Rights jointly conducted hearings during 1970 which revealed the desperate need for adequate housing for minority-group persons in the inner-city, and those devices which exclude minority participation in the suburban job and housing markets were studied.

A number of complaints involving realtors in the inner-city were investigated and brought by the MCAD to public hearing for remedy. In the suburban areas of Boston, along Route 128, complaints were initiated and conciliated by the Commission on a class-action basis — to eliminate a pattern of discrimination which is practiced by suburban realtors throughout the Commonwealth.

Cooperation from local industries helped the MCAD's HUD Grant staff deal more effectively with problems encountered when seeking available housing for minority-group persons in local suburban areas.

The Grant program assisted the MCAD in contacting the 196 housing authorities in the Commonwealth, to inform them of the decision of the U.S. Court of Appeals in the case of *Cole vs. City of Newport Housing Authority*; i.e., that a residency requirement was in violation of the Constitution and should be repealed.

Among those housing authorities which have subsequently dropped their residency requirements are: Abington, Boston, Brookline, Cambridge, Chelsea, Dedham, Fall River, Lawrence, Lynn, Medford, Newton, North Andover, Revere, Saugus, Somerset, Taunton, and Wellesley. Many other authorities either had never adopted residency requirements or had previously repealed them.

The MCAD under the Grant program initiated a plan ("Reporting Rule") to monitor the make-up of housing in the State. Questionnaires were sent out to owners of properties housing 15 or more rental units. These questionnaires

("Reporting Rule") have enabled the MCAD to ascertain the racial make-up of minorities in the rental housing market.

The problem of obtaining a suitable place to live is only one of the problems caused by housing discrimination against Black and Spanish-surnamed persons. The additional problem faced by many minorities is that of obtaining and retaining insurance once property has been purchased. The MCAD's HUD Grant staff has done extensive research and investigation into the availability of homeowners' insurance in the areas where there is a large minority population. Meetings with community and insurance-industry leaders revealed a desire to change the current practices. Recommendations have been forwarded to the Commissioner of Insurance.



## LEGAL DIVISION

Leonard F. DePaola, Legal Counsel

The Legal division of the MCAD is comprised of six full-time attorneys and one part-time attorney — assigned to various units of the Commission. The office of Legal Counsel has the primary function to serve as general counsel to the Commission and its staff. The Commission's Federal Grant programs (EEOC and HUD) utilize the efforts of the majority of our legal staff; i.e., four full-time attorneys and one part-time attorney supporting many MCAD programs (i.e., class-action employment cases, deferred employment cases and systemic class-action sex discrimination cases).

The HUD program is directed by a staff attorney whose responsibility it is to supervise investigations and the general operation of the special housing task force. The legal staff has worked closely with the Commission's other divisions to give advice and support, where needed, in the drafting of training programs, conciliation agreements and particularly with respect to preparation of cases headed for judicial action.

The staff attorneys have been responsible for the drafting of much of the Commission's annual legislative program and, thereafter, in testifying and lobbying on Commission bills. In this area, they have worked closely with both the Research Division and the Education Division. 1971 has proved to be one of the most successful legislative years to date for the MCAD.

During 1971, the Commission, with support of the legal staff, completed a major revision of its Guidelines and Regulations and its rules for adjudicatory proceedings.

The Legal Division of the MCAD, including support from legal interns from local law schools, also represented the Commission by serving as counsel to complainants whose cases have been certified to public hearing.





## RESEARCH DIVISION

Dorothy Parrish, Director  
Della Gilson, Assistant Director

The Research Division continues to represent the Commission in an effort to serve the people of the Commonwealth by providing extensive research and resulting factual data in report form and in statistical comparison with other states, to show existent and past record of progress in the area of civil rights in education, employment, housing and public accommodations as these rights relate to a person's race, color sex, age, religious creed, national origin, ancestry and military status. This effort included providing both the Commission's internal staff and the public with reports and data in the various areas of civil rights.

Among the Research Division's achievements during 1971 were providing public service essays and book reprints on topics which would help to sensitize staff and the general public on strengthening inter-personal relationships with minority-group persons. Also, the Research Division compiled general resource data on each town within the Commonwealth as well as on all State agencies. Especially useful to the internal staff was a compilation of data done by the Research Division on all complaints which were filed with the Commission during the past two years where damages had been awarded to the complainant. Research also assisted the Commission's HUD Grant staff with special projects involving in-depth survey of discriminatory practices existent in areas of housing, banking and insurance privileges throughout the Commonwealth.

The MCAD makes available to the public a record of all legislation which is filed by this Commission during a given year as well as all legislation filed by other sources which might be relevant to our jurisdiction. The Research Division compiled data to support almost all of the legislation which was submitted during the year 1971. Results of these efforts led to passage of bills which are proving of invaluable

assistance to the MCAD in execution of its function. Examples: 1) the "One Commissioner" Bill which permits a single commissioner to conduct public hearings, in lieu of the previously-required three or more; 2) extension of the MCAD's enforcement powers in the area of discrimination because of sex and age.

The Research Division assisted other MCAD divisions in a survey to determine to what degree minority-group persons are discriminated against in employment with agencies of the Commonwealth.

1971 is the first year the MCAD has compiled and released quarterly statistical reports showing status of the Commission's caseload. This is a significant contribution of the Research Division.

Legislation affecting jurisdiction of the Commission, as passed by the General Court of 1971 (compiled by the MCAD's Research Division), is made a part of this report.

**Legislation Affecting Jurisdiction of the MCAD  
as passed by the General Court of 1971**

Chapter 106 1971	Effective 3/23/71 (Emergency Preamble) Approved 3/23/71	An Act Authorizing public hearings to be conducted by a single member of the Massachusetts Commission Against Discrimination in connection with alleged violation in the field of Education.
Chapter 221 1971	Effective 7/21/71 Approved 4/22/71	An Act Providing that Civil Service examinations shall not be restricted to either sex without prior approval of the Mass. Commission Against Discrimination.
Chapter 418 1971	Effective 9/19/71 Approved 6/21/71	An Act to prohibit discrimination on the basis of sex in public accommodations.
Chapter 661 1971	Effective 10/10/71 Approved 8/12/71	An Act further regulating the law relative to the protection of certain persons from unlawful discrimination. (Adds "sex" and "age" to housing jurisdiction).
Chapter 726 1971	Effective 11/30/71 Approved 8/31/71	An Act relative to eliminating discrimination in credit, services or rental accommodations to certain recipients of public assistance.
Chapter 874 1971	Effective 1/11/72 Approved 10/13/71	An Act prohibiting discrimination in the leasing of certain residential real property because of children and prohibiting discrimination in bonding and in the granting of mortgage loans because of sex.
Chapter 910 1971	Effective 10/21/71 (Emergency Law) Approved 10/21/71	An Act further regulating the Patronage of Women in Taverns.
Chapter 923 1971	Effective 10/21/71 (Emergency Law) Approved 10-21-71	An Act Authorizing the Chairman of the Massachusetts Commission Against Discrimination to appoint a single commissioner to conduct Public Hearings in connection with alleged unlawful practices.
Chapter 973 1971	Approved 11/1/71 Effective 1/31/72	An Act regulating the suspension, revocation or renewal of the licenses of real estate brokers and salesmen.





## SEX AND AGE DIVISION

Louise Eckert, Director

The MCAD's Sex and Age Division has kept abreast with the changing times which during the past year realized more positive changes for improvement in the lives of women everywhere than ever before. The Commission's contribution toward this improvement, as evident in facts set forth in this report, resulted in the passage of several new bills, during the year 1971, which will enhance the progress of women in the fight for equal rights within the Commonwealth of Massachusetts.

One extensive effort on part of the MCAD through participation of its Sex and Age Division was the Equal Rights Amendment to the U.S. Constitution. This Amendment simply states that ... "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex ..." However, impact of this Amendment, if adopted, will be far-reaching. It will declare unlawful discrimination which exists solely on the basis of sex from all Federal and state laws and will eliminate the necessity of filing myriad petitions for legislation to correct existent inequities.

Through the Commission's efforts and support during the year 1971, the Massachusetts General Court recognized many of the existent problems by passage of several pieces of legislation. Among these were Chapter 221, which amends Chapter 31, Section 2A, Paragraph "e" and provides that ...

the State Division of Civil Service must seek approval from the MCAD prior to establishing separate male or female lists after examination for appointments or promotions. This statute became effective in July, 1971. This Division of the MCAD is currently developing a program, in cooperation with the Division of Civil Service, to aid in reduction of the number of requests received for employ-

ment or promotional lists, according to the sex and/or age of applicants.

Chap. 418 Amends Chap. 272, Secs. 92A and 98.

This chapter increases coverage of an existing law to prohibit discrimination because of sex in places of public accommodations. This statute became effective in September, 1971. Prior to the effective date of the statute, voluntary compliance was obtained, by the MCAD's Sex and Age Division, from many of the larger hotels and restaurants whose establishments had restricted certain food or beverage sections to "men only" or would serve females only if accompanied by males. (At present, and until 1973, establishments holding "tavern" licenses are exempt from this section of the law.) If the inquiries received by this Division can serve as a guide to evaluate the public's thinking, the law described above is one of the least understood at present. Yet, definition in the law of a "place of public accommodation" should leave no doubt as to the meaning; i.e., "a place that is open to and solicits the patronage of the general public."

Chap. 661 Amends Chapter 151B, Sec. 4, Pars. 6, 7, and 8.

This chapter increases the coverage of any existing housing law to include sex and age discrimination. It prohibits discrimination in the sale, lease or rental of private or commercial space. The word "age" as used in this regard does not apply to persons who are minors; nor does this apply to residents in state-aided or federally-aided housing developments for the elderly. This statute became effective in November, 1971.

Chap. 874 amends Chap. 151B, Sec. 4, Pars. 3A and 3B.

This chapter adds to an existing law and provides that persons may not be discriminated against because of sex in connection with the furnishing of a bond or in the granting of any mortgage loan. This law becomes effective in January, 1972.

Passage of the above laws, enforced by laws which were already in effect, makes it now unlawful in this State to discriminate against any one because of sex or age in employment, housing and/or public accommodations.

Until passage of these laws, discrimination because of sex or age was covered only in the employment provisions of the law. Although Massachusetts labor laws providing restrictions or "benefits" for employed women have not been repealed, despite legislation proposed to nullify them, two opinions rendered by Attorney General Robert H. Quinn in late 1970 and early 1971, have had effect of rendering these laws invalid. The Attorney General's opinions state, in part, ... "The Massachusetts Legislature in initially providing these restrictions assumed, and I think rightfully, that certain women in certain industries required and desired such protection. However, with passage of the Civil Rights Act of 1964, it is now undeniably clear that such protection cannot be forced upon women who do not require it. ... This does not mean that the Commonwealth can no longer legislate in the fashion now in question. However, if it chooses so to legislate, it can do so only to the extent of making the protection of hours, weights, etc., statutes voluntarily available to individual employees, to invoke or not as the employees see fit."

(It may be noted here that in 1963 forty states and the District of Columbia had maximum hours laws for women in certain occupations or industries, or other restrictions concerning the number of pounds a female could legally lift or carry. In 1971, only 10 States retained such laws without modification.)

#### Protective Laws and BFOQ Exemptions

The "protective" laws for women in the past several years were used as the basis for requesting exemptions from the MCAD to limit jobs to males. During the year 1971, these requests for so-called bona fide occupational qualification (BFOQ) exemptions received at the MCAD have appreciably decreased.

Twenty-four requests were received during 1970 to



limit jobs to one sex. These requests involved 126 jobs. In 1971, only twelve *formal* requests were received to grant exemptions. The majority of the jobs were for attendants in male or female locker-rooms or bathhouses and, in each instance, exemptions were granted by the Commission. As in past years, numerous requests were made to the MCAD for permission to hire "only men" or "only women" — based upon stereotyping of jobs. These requests were usually withdrawn after the provisions of the law were explained.

### Newspapers As Affected By Guidelines and Regulations

In December 1971, the MCAD adopted Guidelines and Regulations suitable to carry out the provisions of the laws against discrimination. One of the sections dealt with "*job opportunities advertising*." It stated ... "The maintenance by newspapers and other publishers of help-wanted classified columns segregated by sex is unlawful."

The total experience in the effect of this regulation cannot be reported at this time. During the year, however, the MCAD's Sex and Age Division worked closely with leading daily newspapers throughout the Commonwealth in an effort to obtain voluntary compliance. Two Boston dailies made the change-over; i.e., *The Herald Traveler* on February 28, 1971 and the *Boston Globe* on June 22, 1971. A comprehensive program is planned for the coming year to obtain voluntary compliance from all newspapers in the State without the necessity to initiate complaints.

This Division continues to maintain surveillance over "job opportunities" advertising in the newspapers and other media. Employers are contacted when illegal phrasing appears in the body of an advertisement. They are advised of the provisions of the law and substitute phrasing is recommended which can be legally accepted. In past years, the Commission initiated complaints against employers when such advertising appeared in the newspapers but, because so many advertisements contained some form of unlawful phrasing, the task of investigating these complaints became administratively impossible. It has been

found in the majority of instances that employers who advertise for a "young man" or for a "girl Friday" are really looking for *qualified persons* — regardless of sex or age. When employers learn that the MCAD is not dictating the qualifications of the person or persons to be hired, but simply stating that the *qualifications* of the applicant should be considered rather than sex or age, little resistance is encountered. The Guidelines and Regulations adopted by the Commission in December 1971 should eliminate much of this problem during the coming years, since newspapers may share the responsibility with the advertiser if ad-takers accept wording in the body of an ad which tends to discriminate against any group of persons on the basis of sex or age.

During the year 1971, the MCAD received well over 1,000 inquiries (by telephone and mail) regarding operation of State Laws as they apply to sex and/or age discrimination. Providing information of this sort is not a new function of the MCAD, but such a noticeable increase in the number of such requests received during 1971 over previous years certainly indicates a more acute awareness on the part of the general public that such laws exist.

During 1971, Director of the Sex and Age Division met with representatives of the Massachusetts Taxpayers Association, Massachusetts Law Reform Institute, State Division of Employment Security, Massachusetts Teachers Association, Massachusetts Department of Labor, and conferred with State senators and representatives as well as with many other state, Federal and municipal agencies to provide materials and other assistance and information.

As a member of the Task Force on Job Opportunities of the Governor's Commission on the Status of Women, the Director of this division attended several meetings to evaluate all statutes, programs and policies in the Commonwealth relating to the employment of women. The Governor's Commission on the Status of Women came into being after Governor Sargent signed an Executive Order to create it. Among other task-forces are those concerned with health,

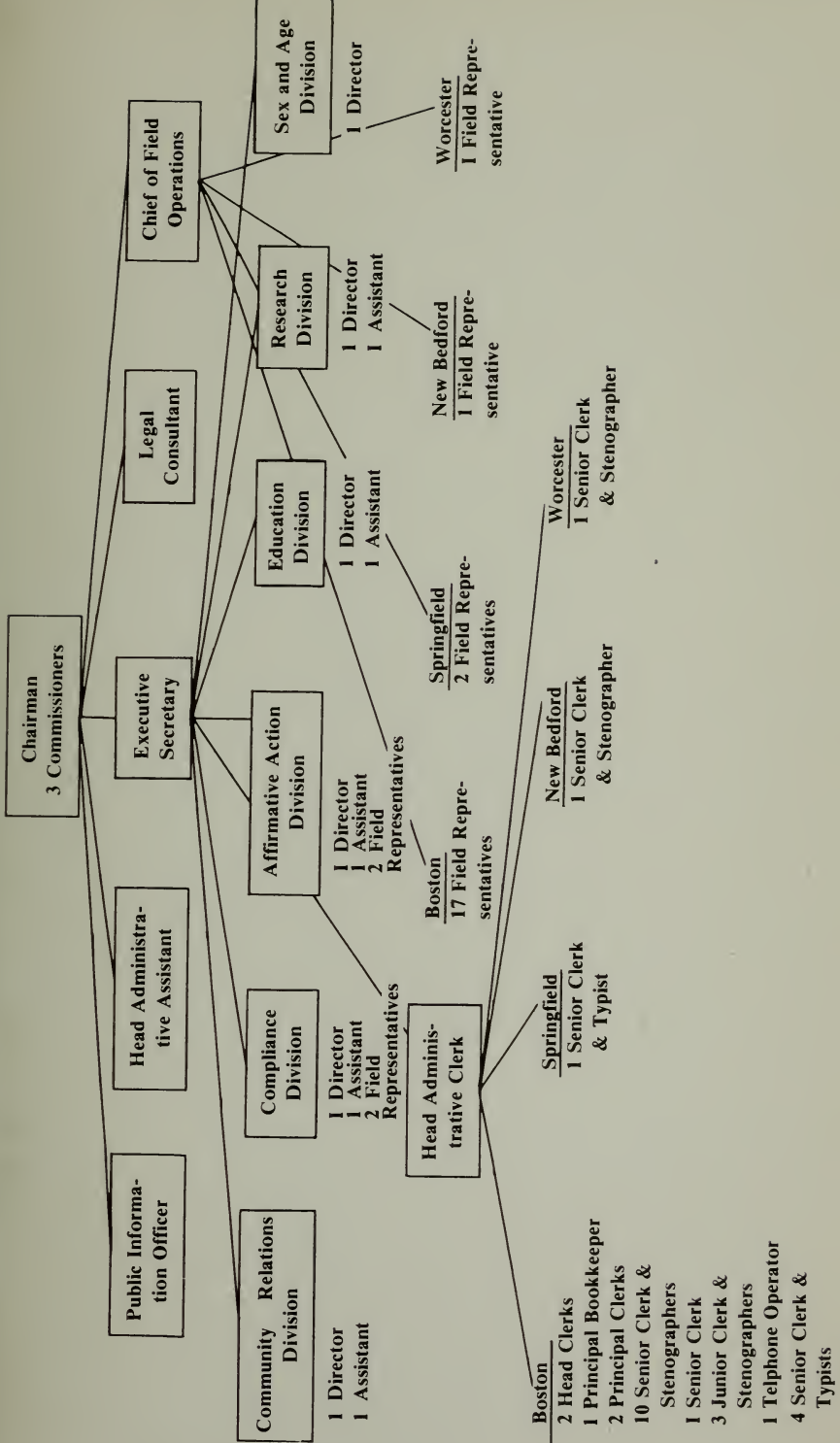
education and child care. Final recommendations from each task force will be presented to the Governor early in 1972.

Director of this division represented the MCAD by speaking at many official gatherings, including a conference of Massachusetts legislators sponsored by the Massachusetts Federation of Business and Professional Women's Club on the "Inequities of Labor Laws," at a National Meeting of the American Dietetic Association on "Opportunities for Women," before the Eastern Massachusetts Home Economics Association on "Legislation Affecting Massachusetts Women," and before a New England women's press association's panel discussion on women's rights. Other discussions were held with private industry and business firms on provisions of the laws pertaining to sex and/or age discrimination.

Director serves as consultant to field investigator working on sex discrimination complaints, reviewing investigations and advising the investigating commissioners on appropriate remedies.



MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION















“WHAT WE NEED IN THE UNITED STATES ..... IS LOVE  
AND WISDOM AND COMPASSION TOWARD THOSE WHO  
STILL SUFFER WITHIN OUR OWN COUNTRY, WHETHER THEY  
BE WHITE OR THEY BE BLACK ...”

ROBERT FRANCIS KENNEDY,  
U. S. SENATOR FROM NEW YORK.  
20 NOVEMBER 1925 — 6 JUNE 1968



THE COMMONWEALTH OF MASSACHUSETTS